

MILBANK, TWEED, HADLEY & McCLOY

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NEW YORK, N Y 10005

NIPPON PRESS CENTER BUILDING
2-1 UCHISAIWAI CHO 2-CHOME
CHIYODA-KU, TOKYO 100

0-234A023

212-530-5000

CABLE, MILTWEED NEW YORK

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RECORDATION NO

15973

FILED 1425

ALEXANDRA HOUSE
16 CHATER ROAD
HONG KONG

AUG 22 1990 12:30 PM

COLLEGE HILL
1825 EYE STREET, N W
WASHINGTON, D C 20006

DIRECT DIAL NUMBER

(212) 530-5068

RECORDATION NO

15973

FILED 1425

AUG 22 1990 12:30 PM

ICC TRANSMITTAL LETTER

August 21, 1990

1903/04 SHELL TOWER
50 RAFFLES PLACE
SINGAPORE 0104

515 SOUTH FIGUEROA STREET
LOS ANGELES, CA 90071

Honorable Noleta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Re: 1) Lease Agreement - *See R... 20...*
2) Trust Indenture and Security Agreement - *See R... 20...*

Dear Ms. McGee:

On behalf of Chicago and North Western Transportation Company, the above instruments, in ~~four~~ (2) counterparts each, are hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$15 recordation fee per each document.

Please record the Lease Agreement (the "Lease Agreement") dated as of August 1, 1990, not previously recorded, under a new recordation number.

The parties to the Lease Agreement are listed below:

Meridian Trust Company, in its individual capacity as expressly provided therein and otherwise as Owner Trustee under the Trust Agreement referred to therein (the "Lessor")
35 North Sixth Street
Reading, Pennsylvania 19601

Chicago and North Western Transportation Company (the "Lessee")
165 Canal Street
Chicago, Illinois 60606

The Lease Agreement sets forth the terms upon which the Lessor will lease to the Lessee certain railroad rolling stock identified in Schedule 3 thereto

Honorable Noreta R. McGee
August 21, 1990
Page 2

- A
The Trust Indenture and Security Agreement (the "Trust Indenture and Security Agreement") dated as of August 1, 1990 should be recorded as -A of the same recordation number as the Lease Agreement.

The parties to the Trust Indenture and Security Agreement are as follows:

Meridian Trust Company, in its individual capacity as expressly provided therein and otherwise as Owner Trustee under the Trust Agreement referred to therein (the "Owner Trustee")
35 North Sixth Street
Reading, Pennsylvania 19601

The Chase Manhattan Bank (National Association)
as Indenture Trustee (the "Indenture Trustee")
1 Chase Manhattan Plaza
New York, New York 10081

The Trust Indenture and Security Agreement provides for a grant by the Owner Trustee to the Indenture Trustee of a security interest in the railroad rolling stock described in Schedule 1 to the Trust Indenture and Security Agreement, and for an assignment by the Owner Trustee to the Indenture Trustee of the rights of the Owner Trustee under the Lease Agreement.

The railroad rolling stock covered by the documents, as listed above, is identified in Schedule 3 to the Lease Agreement, a copy of which schedule is attached to this letter.

A short summary of the documents to appear in the ICC Index is as follows:

"Covers 12 diesel electric locomotives."

Once the filings have been made, please return to the undersigned the stamped counterparts of the Lease Agreement and the Trust Indenture and Security Agreement not required for filing purposes, together with the ICC fee receipt and the letter from the ICC acknowledging the filings.

Very truly yours,


Christopher Fink

15973
RECORDATION NO. _____ FILED 1425

AUG 22 1990 - 12 30 PM
INTERSTATE COMMERCE COMMISSION

== == == == ==
TRUST INDENTURE AND SECURITY AGREEMENT

Dated as of

August 1, 1990

BETWEEN

MERIDIAN TRUST COMPANY,
in its individual capacity as
expressly provided herein and
otherwise solely as Owner Trustee

Owner Trustee

AND

THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION)

Indenture Trustee

12 GENERAL ELECTRIC MODEL DASH 8-40C
4000 HP DIESEL ELECTRIC LOCOMOTIVES

TABLE OF CONTENTS

	<u>Page</u>
RECITALS	2
GRANTING CLAUSE	2

ARTICLE I

DEFINITIONS

SECTION 1.01. Special Definitions	6
SECTION 1.02. Other Definitions	9

ARTICLE II

THE NOTES

SECTION 2.01. Terms of Notes	10
SECTION 2.02. Taxes	11
SECTION 2.03. Payments from Indenture Estate Only	13
SECTION 2.04. Method of Payment	13
SECTION 2.05. Application of Payments	14
SECTION 2.06. Termination of Interest in Indenture Estate	15
SECTION 2.07. Registration, Transfer and Exchange of Notes	15
SECTION 2.08. Mutilated, Destroyed, Lost or Stolen Notes	16
SECTION 2.09. Payment of Expenses on Transfer	16
SECTION 2.10. Prepayment	17
SECTION 2.11. Provisions Relating to Prepayment	17
SECTION 2.12. Purchase Upon a Lease Event of Default	18

ARTICLE III

RECEIPT, DISTRIBUTION AND APPLICATION OF INCOME FROM THE TRUST INDENTURE ESTATE

SECTION 3.01(a) Basic Rent Distribution	19
SECTION 3.02. Lease Termination and Event of Loss	20
SECTION 3.03. Payment After Indenture Event of Default, etc.	21
SECTION 3.04. Certain Payments	23
SECTION 3.05. Other Payments	23
SECTION 3.06. Payments to Owner Trustee	24
SECTION 3.07. Investment of Amounts Held by Indenture Trustee	24

ARTICLE IV

COVENANTS; EVENTS OF DEFAULT;
REMEDIES OF INDENTURE TRUSTEE

SECTION 4.01.	Covenants of the Trust Company and the Owner Trustee	25
SECTION 4.02.	Indenture Event of Default	26
SECTION 4.03.	Certain Cure Rights	29
SECTION 4.04.	Remedies	31
SECTION 4.05.	Return of Units, etc.	33
SECTION 4.06.	Remedies Cumulative	34
SECTION 4.07.	Discontinuance of Proceedings	34
SECTION 4.08.	Waiver of Past Defaults	35

ARTICLE V

DUTIES OF THE INDENTURE TRUSTEE

SECTION 5.01.	Notice of Indenture Event of Default; Other Notices	35
SECTION 5.02.	Action Upon Instructions	37
SECTION 5.03.	Indemnification	37
SECTION 5.04.	No Duties Except as Specified in Indenture or Instructions	38
SECTION 5.05.	No Action Except Under Lease, Participation Agreement, Trust Indenture or Instructions	38
SECTION 5.06.	Certain Rights of Owner Trustee and Owner Participant	39

ARTICLE VI

THE OWNER TRUSTEE AND THE INDENTURE TRUSTEE

SECTION 6.01.	Acceptance of Trusts and Duties	40
SECTION 6.02.	Absence of Duties	41
SECTION 6.03.	No Representations or Warranties as to Units or Documents	41
SECTION 6.04.	No Segregation of Monies; No Interest . .	42
SECTION 6.05.	Reliance; Agents; Advice of Counsel . . .	42
SECTION 6.06.	Capacity in Which Acting	43
SECTION 6.07.	Compensation	43
SECTION 6.08.	May Become Note Holder	43
SECTION 6.09.	Further Assurances; Filing and Recording	44

ARTICLE VII

INDEMNIFICATION OF INDENTURE TRUSTEE BY OWNER TRUSTEE

SECTION 7.01.	Scope of Indemnification	44
---------------	------------------------------------	----

ARTICLE VIII

SUCCESSOR TRUSTEES; SEPARATE TRUSTEES

SECTION 8.01.	Notice of Successor Owner Trustee	45
SECTION 8.02.	Resignation of Indenture Trustee; Appointment of Successor	46
SECTION 8.03.	Appointment of Separate Trustees	47

ARTICLE IX

SUPPLEMENTS AND AMENDMENTS TO THIS INDENTURE AND OTHER DOCUMENTS

SECTION 9.01.	Instructions of Majority; Limitations	50
SECTION 9.02.	Trustees Protected	51
SECTION 9.03.	Documents Mailed to Holders	51

ARTICLE X

MISCELLANEOUS

SECTION 10.01.	Termination of Indenture	52
SECTION 10.02.	No Legal Title to Indenture Estate in Holders	52
SECTION 10.03.	Sale of Units by Indenture Trustee is Binding	52
SECTION 10.04.	Indenture for Benefit of Owner Trustee, Indenture Trustee, Owner Participant and Note Holders	53
SECTION 10.05.	No Action Contrary to Lessee's Rights Under the Lease	53
SECTION 10.06.	Notices	53
SECTION 10.07.	Severability	54
SECTION 10.08.	No Oral Modifications or Continuing Waivers	54
SECTION 10.09.	Successors and Assigns	54
SECTION 10.10.	Headings	54
SECTION 10.11.	Governing Law; Counterpart Form	54

SCHEDULE 1 - Description of Units

EXHIBIT A - Form of Note

TRUST INDENTURE AND SECURITY AGREEMENT

TRUST INDENTURE AND SECURITY AGREEMENT dated as of August 1, 1990 between MERIDIAN TRUST COMPANY, a Pennsylvania trust company, in its individual capacity only as expressly stated herein (when acting in such individual capacity called the "Trust Company", and otherwise solely as owner trustee under the Trust Agreement referred to below (in such capacity, the "Owner Trustee")), and THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), a national banking association, not in its individual capacity except as expressly stated herein, but solely as Indenture Trustee hereunder (in such capacity, together with its successors and assigns in such capacity, the "Indenture Trustee").

WHEREAS, all capitalized terms used herein shall have the respective meanings set forth or referred to in Schedule 4 to the Lease Agreement dated as of August 1, 1990 (the "Lease") between the Owner Trustee, as lessor, and Chicago and Northwestern Transportation Company, a Delaware corporation, as lessee (the "Lessee") or, if not set forth or referred to therein, in Article I hereof;

WHEREAS, the Owner Participant and the Trust Company have entered into a Trust Agreement dated as of August 1, 1990 (as amended or otherwise modified from time to time in accordance with the provisions hereof, thereof and of the Participation Agreement, the "Trust Agreement") whereby, among other things, the Trust Company has declared a certain trust for the use and benefit of the Owner Participant, subject, however, to the lien of this Indenture, and the Owner Trustee is authorized and directed to execute and deliver this Indenture;

WHEREAS, the Owner Trustee and the Indenture Trustee have also entered into a Participation Agreement with the Lessee, the Owner Participant and the Loan Participant providing for the commitment of the Loan Participant to purchase on the Closing Date the Note in an aggregate principal amount not to exceed the Debt Commitment. The proceeds of the Note are to be used by the Owner Trustee to pay a portion of the Purchase Price of the Units on the Closing Date.

WHEREAS, the Owner Trustee desires by this Indenture, among other things, (i) to provide for the issuance by the Owner Trustee of a Note to the Loan Participant, as provided in the Participation Agreement, and (ii) to provide for the assignment, mortgage and pledge by the Owner Trustee to the Indenture Trustee, as part of the Indenture Estate hereunder, among other things, of certain of the Owner Trustee's right, title and interest in and to the Units and the Operative Documents and the payments and other amounts received thereunder or in respect thereof in accordance with the terms hereof, as security for, among other things, the Owner Trustee's and Lessee's obligations

to the Note Holders, and for the benefit and security of the Note Holders;

WHEREAS, all things have been done to make the Notes, when executed by the Owner Trustee and authenticated, issued and delivered hereunder, the valid obligations of the Owner Trustee; and

WHEREAS, all things necessary to make this Indenture the valid, binding and legal obligation of the Owner Trustee, for the uses and purposes herein set forth and in accordance with its terms, have been done and performed and have happened;

-- GRANTING CLAUSE --

NOW, THEREFORE, THIS TRUST INDENTURE AND SECURITY AGREEMENT WITNESSETH, that, to secure the prompt payment of the principal of and interest on, and all other amounts due with respect to, all Notes from time to time outstanding hereunder and the performance and observance by the Owner Trustee of all the agreements, covenants and provisions for the benefit of the Note Holders herein and in the Participation Agreement and the Notes contained, and the prompt payment of any and all amounts from time to time owing hereunder and under the Participation Agreement and the other Operative Documents by the Owner Trustee, the Owner Participant or the Lessee to the Note Holders, and for the uses and purposes and subject to the terms and provisions hereof, and in consideration of the premises and of the covenants herein contained, and of the acceptance of the Notes by the holders thereof, and of the sum of \$1 paid to the Owner Trustee by the Indenture Trustee at or before the delivery hereof, the receipt whereof is hereby acknowledged, the Owner Trustee has granted, bargained, sold, assigned, transferred, conveyed, mortgaged, pledged and confirmed, and does hereby grant, bargain, sell, assign, transfer, convey, mortgage, pledge and confirm, unto the Indenture Trustee and its successors and assigns, for the security and benefit of the Note Holders, as aforesaid, a first priority security interest in and first mortgage lien upon, all right, title and interest of the Owner Trustee in, to and under the following described property, rights and privileges, other than Excepted Rights in Collateral (which collectively, excluding Excepted Rights in Collateral but including all property hereafter specifically subjected to the Lien of this Indenture or any other mortgage supplemental hereto, shall constitute the "Indenture Estate"), to wit:

TRUST INDENTURE

1. all estate, right, title and interest of the Owner Trustee in the Units and all replacements thereof and substitutions therefor to which the Owner Trustee shall from time to time acquire title as provided herein and in the Lease, all as more particularly described on Schedule 1 hereto executed and delivered with respect to the Units or any such replacements or substitutions therefor, as provided in this Indenture, and all records, logs and other documents at any time maintained with respect to the foregoing property;

2. all estate, right, title and interest of the Owner Trustee in, to and under the Lease and all Rent thereunder, including, without limitation, all Interim Rent, Basic Rent, Supplemental Rent, insurance proceeds and requisition and other payments of any kind thereunder and including all rights of the Owner Trustee to execute any election or option or to give any notice, consent, waiver, or approval under or in respect of the Lease or to accept any surrender of the Units or any part thereof, as well as any rights, powers or remedies on the part of the Owner Trustee, whether arising under the Lease or by statute or at law or in equity, or otherwise, arising out of any Lease Event of Default;

3. all estate, right, title and interest of the Owner Trustee in, to and under the Participation Agreement, the Bill of Sale, the Purchase Agreement, the Manufacturer's Consent and all other Indenture Documents (including, without limitation, all rights to amount paid or payable to the Owner Trustee thereunder and all rights to enforce such payments);

4. all tolls, rents, issues, profits, revenues and other income of the property subjected or required to be subjected to the Lien of this Indenture including all payments or proceeds payable to the Owner Trustee after termination of the Lease with respect to any Unit as the result of the sale, lease or other disposition thereof, and all estate, right, title and interest of every nature whatsoever of the Owner Trustee in and to the same and every part thereof;

5. all insurance and requisition proceeds and all other payments of any kind with respect to the Units, including but not limited to the insurance required under Section 10 of the Lease;

6. all monies and securities deposited or required to be deposited with the Owner Trustee or the Indenture Trustee

TRUST INDENTURE

pursuant to any term of this Indenture or the Lease or required to be held by the Indenture Trustee hereunder; and

7. all proceeds of the foregoing.

The Owner Trustee is concurrently with the delivery hereof delivering to the Indenture Trustee an executed chattel paper original counterpart of the Lease covering the Units, together with executed copies of the Trust Agreement and each of the other Indenture Documents (other than the Participation Agreement and the Bill of Sale). All property referred to in this Granting Clause, whenever acquired by the Owner Trustee, shall secure all obligations under and with respect to the Notes at any time outstanding. Any and all properties referred to in this Granting Clause which are hereafter acquired by the Owner Trustee, shall, without further conveyance, assignment or act by the Owner Trustee or the Indenture Trustee thereby become and be subject to the security interest hereby granted as fully and completely as though specifically described herein.

-- HABENDUM CLAUSE --

TO HAVE AND TO HOLD all and singular the aforesaid property unto the Indenture Trustee, its successors and assigns, in trust for the benefit and security of the Note Holders, and for the uses and purposes and subject to the terms and provisions set forth in this Indenture.

It is expressly agreed that anything herein contained to the contrary notwithstanding, the Owner Trustee shall remain liable under the Indenture Documents to perform all of the obligations assumed by it thereunder, all in accordance with and pursuant to the terms and provisions thereof, and the Indenture Trustee and the Note Holders shall have no obligation or liability under any thereof by reason of or arising out of the assignment hereunder, nor shall the Note Holders be required or obligated in any manner to perform or fulfill any obligations of the Owner Trustee under or pursuant to any of the Indenture Documents, except as therein or herein expressly provided, to make any payment, or to make any inquiry as to the nature or sufficiency of any payment received by it, or present or file any claim, or take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

The Owner Trustee does hereby constitute the Indenture Trustee the true and lawful attorney of the Owner Trustee, irrevocably, with full power (in the name of the Owner Trustee or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all monies and claims for monies (in each case including insurance and requisition proceeds) due and to become due under or arising out of the Indenture Documents and all other property which now or hereafter constitutes part of the Indenture Estate, to endorse any checks or other instruments or orders in connection therewith and to file any claims or to take any action or to institute any proceedings which the Indenture Trustee may deem to be necessary or advisable in the premises. Under the Lease the Lessee is directed to make all payments of Rent (other than Excepted Rights in Collateral) and all other amounts which are required to be paid to or deposited with the Owner Trustee pursuant to the Lease (other than Excepted Rights in Collateral), directly to the Indenture Trustee at such address or addresses as the Indenture Trustee shall specify, for application as provided in this Indenture. The Owner Trustee agrees that promptly on receipt thereof, it will transfer to the Indenture Trustee any and all monies from time to time received by it constituting part of the Indenture Estate, for distribution by the Indenture Trustee pursuant to this Indenture.

The Owner Trustee does hereby warrant and represent that (except as permitted herein) it has not assigned or pledged any of its right, title, and interest hereby assigned to anyone other than the Indenture Trustee.

The Owner Trustee does hereby ratify and confirm the Indenture Documents and does hereby agree that (except as permitted herein) it will not take or omit to take any action, the taking or omission of which would result in an alteration or impairment of any of the Indenture Documents or of any of the rights created by any thereof or the assignment hereunder.

Notwithstanding the Granting Clause or any of the preceding paragraphs, there are hereby expressly excluded from the foregoing grant, bargain, sale, assignment, transfer, conveyance, mortgage, pledge and security interest all Excepted Rights in Collateral. Further, nothing in the Granting Clause or any of the preceding paragraphs shall impair in any respect the rights of the Owner Trustee or the Owner Participant under Section 5.06.

IT IS HEREBY COVENANTED AND AGREED by and between the parties hereto as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Special Definitions. For all purposes of this Indenture the following terms shall have the following meanings (such definitions to be equally applicable to both the singular and plural forms of the terms defined). Any agreement referred to below shall mean such agreement as amended, supplemented and modified from time to time in accordance with the applicable provisions thereof and of the other Operative Documents. Unless otherwise specified, Section and Article references are to Sections and Articles of this Indenture.

"Affiliate" of any Person shall mean any other Person directly or indirectly controlling, directly or indirectly controlled by, or under direct or indirect common control with, such Person.

"Applicable Rate" means 10.3% per annum.

"Corporate Trust Office" means the principal office of the Indenture Trustee at which its corporate trust business is administered, which, at the present time, is located at 1 New York Plaza, New York, New York 10081. The Indenture Trustee shall specify any change in the address of such office by delivering written notice thereof to the Lessee, the Owner Trustee, the Owner Participant and each Note Holder.

"Dollars" and "\$" means lawful currency of the United States of America.

"Federal Funds Rate" means, for any day, the rate per annum (rounded upward if necessary to the nearest 1/100th of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that (a) if the day for which such rate is to be determined is not a Business Day, the Federal Funds Rate for such day shall be the rate for overnight Federal funds transactions on the

next succeeding Business Day as so published on the next succeeding Business Day, and (b) if such rate is not so published for such day, the Federal Funds Rate for such day shall be the average rate charged to The Chase Manhattan Bank (National Association) on such transactions.

"FedWire" means the funds transfer system used to transfer reserve balances for immediately available credit among the member banks of the United States Federal Reserve System.

"Indenture", "this Indenture", and "the Trust Indenture" mean this Trust Indenture and Security Agreement, including any Indenture Supplement and each other supplement from time to time entered into pursuant hereto.

"Indenture Default" means an Indenture Event of Default or an event which with notice or lapse of time or both would become an Indenture Event of Default.

"Indenture Documents" means the Participation Agreement, the Lease, the Bill of Sale, the Purchase Agreement, the Manufacturer's Consent and the Purchase Agreement Assignment.

"Indenture Estate" or "Trust Indenture Estate" means the "Indenture Estate" as defined in the Granting Clause hereof.

"Indenture Event of Default" has the meaning specified in Section 4.02.

"Interest Payment Date" means March 1, 1991 and thereafter each succeeding March 1 and September 1 of each year until and including March 1, 2009; provided that if any such date shall not be a Business Day, then the relevant Interest Payment Date shall be the next succeeding Business Day.

"Loan Value" shall mean, with respect to any Unit, as of any Stipulated Loss Value payment date or early purchase option payment date pursuant to Section 17.1.B of the Lease, as applicable, an amount equal to the product of (a) a fraction, the numerator of which is an amount equal to the Purchase Price of such Unit for which settlement is then being made and the denominator of which is the aggregate Purchase Price of all Units then subject to the Lease, times

(b) the unpaid principal amount of the Note immediately prior to the prepayment provided for in Section 2.10.

"Majority in Interest of Note Holders" means, as of any date of the determination thereof, the holders of not less than 66-2/3% in aggregate principal amount of all Notes outstanding. For all purposes of the foregoing definition, in determining as of any date the then aggregate outstanding principal amount of Notes, there shall be excluded any Notes, if any, held by the Owner Trustee, the Owner Participant or the Lessee or any Affiliate of any thereof (unless the Owner Trustee, the Owner Participant, the Lessee or their respective Affiliates, as the case may be, own all Notes then outstanding), or any interest of the Owner Trustee or the Owner Participant in any Note by reason of subrogation pursuant to Section 4.03. The Indenture Trustee shall be protected in excluding only those Notes which the Indenture Trustee knows to be held by the Owner Trustee, the Owner Participant or the Lessee or any Affiliate of any thereof.

"Non-U.S. Person" means any Person other than (i) a citizen or resident of the United States of America, its territories and possessions (including the Commonwealth of Puerto Rico and all other areas subject to its jurisdiction) (for purposes of this definition, the "United States"), (ii) a corporation, partnership or other entity created or organized under the laws of the United States or any political subdivision thereof or therein or (iii) an estate or trust that is subject to United States federal income taxation regardless of the source of its income.

"Notes" means the loan notes; substantially in the form set forth on Exhibit A hereof, issued pursuant to Section 2.01(a) and any such notes issued in exchange or replacement therefor pursuant to Section 2.07 or 2.08.

"Note Holder" or "holder" means, at any time, the Loan Participant (for so long as it holds any interest in a Note) and any other holder of one or more Notes.

"Note Register" has the meaning specified in Section 2.08.

"Outstanding" means, when used with respect to the Notes, as of the date of determination, all Notes theretofore authenticated and delivered under the Indenture,

except (i) the principal amount of Notes for which payment has been made, or for whose payment or redemption money in the necessary amount has theretofore been deposited with the Indenture Trustee; and (ii) the principal amount of Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to the Indenture.

"Payment Date" means each Interest Payment Date listed under the Schedule of Principal Payments for the Notes set forth in Section 2.01(b).

"Permitted Investments" means (a) investments in direct obligations of the government of the United States or any instrumentality thereof the obligations of which are guaranteed by such government maturing within 90 days of the date of acquisition thereof, (b) investments in obligations fully guaranteed by the government of the United States or any instrumentality thereof the obligations of which are guaranteed by such government maturing within 90 days of the date of acquisition thereof, (c) investments in open market commercial paper issued by any corporation rated at least P-1 by Moody's Investors Service, Inc. or A-1 by Standard & Poor's Corporation maturing within 90 days from the date of acquisition thereof, (d) investments in notes of deposit issued by, or bankers' acceptances of, or time deposits or a deposit account issued by, any bank, trust company or national banking association (including the Indenture Trustee) incorporated or doing business under the laws of the United States of America or any State thereof having a combined capital and surplus of at least \$500,000,000, in each case maturing within 90 days of the date of acquisition thereof.

"Securities Act" means the Securities Act of 1933, as amended.

SECTION 1.02. Other Definitions. For all purposes of this Indenture, terms defined in the heading and recitals of this Indenture are used as so defined and capitalized terms used but not defined in this Indenture are used as defined in Schedule 4 to the Lease.

ARTICLE II

THE NOTES

SECTION 2.01. Terms of Notes.

(a) On the Closing Date the Owner Trustee shall deliver a Note to the Indenture Trustee in an aggregate original principal amount equal to the lesser of (i) the Debt Commitment and (ii) the product of 80% times the Purchase Price. Upon receipt by the Indenture Trustee of the aggregate original principal amount above indicated, the Indenture Trustee shall authenticate and deliver such Note to the Loan Participant. Each Note shall bear interest on the unpaid principal amount thereof from time to time outstanding from and including the date thereof until such principal amount is paid in full at the Applicable Rate, payable in arrears on each Interest Payment Date and on the date such Note is paid in full.

(b) The principal of the Notes shall be due and payable on each Payment Date in thirty-three (33) consecutive installments as follows:

SCHEDULE OF PRINCIPAL PAYMENTS

<u>Payment Date (Interest Payment Date occurring in)</u>	<u>Principal Amount to be Paid (Displayed in Percentages of Original Principal)</u>
3/1/1993	0.42782017
9/1/1993	1.15251807
3/1/1994	1.21187275
9/1/1994	1.27428420
3/1/1995	1.33990983
9/1/1995	1.40891519
3/1/1996	1.48147432
9/1/1996	1.55777025
3/1/1997	1.63799542
9/1/1997	1.72235218
3/1/1998	1.81105332
9/1/1998	1.36211672
3/1/1999	1.58220049
9/1/1999	1.16766059
3/1/2000	1.81964923
9/1/2000	2.45458463
3/1/2001	2.71195244
9/1/2001	2.47208120

3/1/2002	2.82429234
9/1/2002	2.62405883
3/1/2003	3.01851692
9/1/2003	3.66214444
3/1/2004	4.62349775
9/1/2004	4.86160789
3/1/2005	5.11198069
9/1/2005	5.37524770
3/1/2006	5.65207295
9/1/2006	5.94315471
3/1/2007	6.24922718
9/1/2007	6.57106238
3/1/2008	6.90947209
9/1/2008	7.26530990
3/1/2009	0.71214322

(c) Each Note shall bear interest at the Default Rate on any principal thereof and, to the extent permitted by applicable law, interest and other amounts due thereunder and hereunder, not paid when due (whether at stated maturity, by acceleration or otherwise), for any period during which the same shall be overdue, payable on demand by the respective Note Holder given through the Indenture Trustee.

(d) The Notes shall be executed on behalf of the Owner Trustee by one of its authorized officers. Notes bearing the signatures of individuals who were at any time the proper officers of the Owner Trustee shall bind the Owner Trustee, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Notes or did not hold such offices at the respective dates of such Notes. No Notes shall be issued hereunder except those provided for in Section 2.01(a) and any Notes issued in exchange or replacement therefor pursuant to the terms of this Indenture. Each Note issued under this Section 2.01 shall be dated the Closing Date. No Note shall be secured by or entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless there appears on such Note a note of authentication in the form provided for herein executed by the Indenture Trustee by the manual signature of one of its authorized officers and such note upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder.

SECTION 2.02. Taxes. The Owner Trustee agrees to pay, and to indemnify and hold each Note Holder and its respective successors, assigns, employees, agents and servants (each being

hereinafter referred to as an "Indemnatee") harmless from and against, all Taxes (including Taxes payable by reason of any payment under this Section 2.02), other than any Taxes for which the Indemnatee is not then entitled to an indemnification payment pursuant to Section 7.1 of the Participation Agreement, imposed upon any Indemnatee upon or with respect to or measured by or resulting from this Indenture, any other Operative Document or any Note, or any principal, interest or other payment made or payable by the Owner Trustee hereunder or thereunder. The Indenture Trustee agrees, to the extent required by applicable law, to withhold from each payment due hereunder or under any Note to a Non-U.S. Person United States federal withholding taxes at the appropriate rate, and, on a timely basis, to deposit such amounts with an authorized depository and make such reports, filings and other reports in connection therewith, and in the manner, required under applicable law. The Indenture Trustee shall promptly (but in no event later than the date 30 days after the due date of the relevant payment) furnish to each Note Holder a U.S. Treasury Form 1042S and Form 8109-B (or similar forms as at any relevant time in effect), if applicable, indicating payment in full of any Taxes withheld from any payments by the Indenture Trustee to such Note Holder together with all such other information and documents reasonably requested by such Note Holder and necessary or appropriate to enable such Person to substantiate a claim for credit or deduction with respect thereto for income tax purposes of any jurisdiction with respect to which such Person is required to file a tax return. Provided that each Note Holder which is a Non-U.S. Person has furnished to the Indenture Trustee a properly completed and currently effective U.S. Treasury Form 1001 (or such successor form as may be required by the United States Treasury department) during the calendar year in which the payment is made, or in either of the two preceding calendar years, and has not notified the Indenture Trustee of the withdrawal of such Form prior to the date of each interest payment, only the reduced amount required by applicable law shall be withheld from payments under the Notes held by such Note Holder in respect of United States federal income tax. Provided further that each Note Holder which is a Non-U.S. Person has furnished to the Indenture Trustee a properly completed and currently effective U.S. Treasury Form 4224 or other note or form establishing exemption from withholding of United States federal income tax during the calendar year in which the payment is made, or in either of the two preceding calendar years, and has not notified the Indenture Trustee of the withdrawal of such Form or note prior to the date of each interest payment, no amount shall be withheld from payments under the Notes held by such Note Holder in respect of United States federal income tax. Each Note

Holder shall indemnify and hold harmless the Indenture Trustee against any claim for United States withholding taxes which the Indenture Trustee improperly fails to withhold on payments to such Note Holder as a direct result of the failure by such Note Holder to provide the required note or Form or the invalidity of any note or Form provided by such Note Holder pursuant to this Section 2.02.

SECTION 2.03. Payments from Indenture Estate Only. Except as otherwise expressly provided in the next succeeding sentence of this Section 2.03, all payments to be made by the Owner Trustee under this Indenture shall be made only from the income and the proceeds from the Indenture Estate and only to the extent that the Owner Trustee shall have sufficient income or proceeds from the Indenture Estate to enable the Indenture Trustee to make payments in accordance with the terms hereof. Each Note Holder, by its acceptance of a Note, and the Indenture Trustee, each agrees that it will look solely to the income and proceeds from the Indenture Estate to the extent available for distribution to it as above provided and that none of the Owner Participant, the Trust Company or the Indenture Trustee is personally liable to such Note holder for any amounts payable or any liability under this Indenture or such Note or for any amounts payable or liability under any Note or this Indenture, except (in the case of the Indenture Trustee and the Trust Company) as expressly provided herein or (in the case of the Trust Company, the Indenture Trustee or the Owner Participant) as expressly provided in the Participation Agreement or any other Operative Document.

SECTION 2.04. Method of Payment. Principal and interest and other amounts due hereunder or under the Notes or in respect hereof or thereof shall be payable in Dollars in immediately available funds prior to Noon, New York, New York time, on the due date thereof, to the Indenture Trustee at the Corporate Trust Office and the Indenture Trustee shall, subject to the terms and conditions hereof, remit all such amounts so received by it to the Note Holders at such account or accounts at such financial institution or institutions as the Note Holders shall have designated to the Indenture Trustee in writing, in immediately available funds for distribution to the relevant Note Holders, such payment to be made, in the case of any such designated account in New York, New York, prior to 3:00 P.M., New York time, on the due date thereof. The Indenture Trustee shall use its best efforts to notify by telephone the institution, at which such designated account is located, of the FedWire reference number (if such reference number is then

available) of such remittance (or other applicable reference number if a different method of funds transfer is used), prior to 5:00 P.M., New York time, on the date of such remittance. In the event the Indenture Trustee shall fail to make any such payment as provided in the immediately foregoing sentence after its receipt of funds at the place and prior to the time specified above, the Indenture Trustee, in its individual capacity and not as trustee, agrees to compensate the Note Holders for loss of use of funds at the Federal Funds Rate. All such payments by the Owner Trustee and the Indenture Trustee shall be made free and clear of and without reduction for wire or other like charges. The Owner Trustee and the Indenture Trustee may deem and treat the Person in whose name any Note is registered on the Note Register as the absolute owner of such Note for the purpose of receiving payment of all amounts payable with respect to such Note and for all other purposes whether or not such Note shall be overdue, and neither the Owner Trustee nor the Indenture Trustee shall be affected by any notice to the contrary. Interest hereunder and under the Notes shall be calculated on the basis of a year of 360 days consisting of 12 thirty-day months; provided that interest on past due amounts shall be calculated on the basis of a year of 360 days and actual days elapsed. If any sum payable under the Notes or under this Indenture falls due on a day which is not a Business Day, then such sum shall be payable on the next succeeding Business Day, together with interest thereon at the Applicable Rate from and including the scheduled due date to but excluding such next succeeding Business Day.

SECTION 2.05. Application of Payments. Each payment of principal and interest or other amounts due in respect of each Note shall, except as otherwise expressly provided herein, be applied, first, to the payment of any amount (other than the principal of or interest on such Note) due in respect of such Note, second, to the payment of interest on such Note (as well as any interest on overdue principal and, to the extent permitted by law, interest and other amounts payable thereunder) due thereunder, third, to the payment of the principal of such Note then due and fourth, the balance, if any, remaining thereafter, to the payment of the principal of such Note remaining unpaid (provided that such Note shall not be subject to prepayment or purchase without the consent of the affected Note Holder except as permitted by Sections 2.10, 2.11 and 2.12). The amounts paid pursuant to clause fourth above shall be applied to the installments of principal of such Note in inverse order of maturity.

SECTION 2.06. Termination of Interest in Indenture Estate. A Note Holder shall not, as such, have any further interest in, or other right with respect to, the Indenture Estate when and if the principal amount of and interest on and other amounts due under all Notes held by such holder and all other sums due to such Note Holder hereunder and under the other Operative Documents shall have been paid in full.

SECTION 2.07. Registration, Transfer and Exchange of Notes. The Indenture Trustee shall keep a register (herein sometimes referred to as the "Note Register") in which provisions shall be made for the registration of Notes and the registration of transfers of Notes. The Note Register shall be kept at the Corporate Trust Office, and the Indenture Trustee is hereby appointed "Note Registrar" for the purpose of registering Notes and transfers of Notes as herein provided. Upon surrender for registration of transfer of any Note at the Corporate Trust Office, the Owner Trustee shall execute, and the Indenture Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of a like aggregate principal amount. At the option of the Note Holder, its Notes may be exchanged for other Notes of any authorized denominations, of a like aggregate principal amount, upon surrender of the Notes to be exchanged at the Corporate Trust Office. Each new Note issued upon transfer or exchange shall be in a principal amount of at least \$500,000 (except as may be necessary to evidence the entire outstanding principal amount of a Note) and dated the Closing Date. Whenever any Notes are so surrendered for exchange, the Owner Trustee shall execute, and the Indenture Trustee shall authenticate and deliver, the Notes which the Note Holder making the exchange is entitled to receive. All Notes issued upon any registration of transfer or exchange of Notes shall be the valid obligations of the Owner Trustee evidencing the same respective obligations, and entitled to the same security and benefits under this Indenture, as the Notes surrendered upon such registration of transfer or exchange. Every Note presented or surrendered for registration of transfer or exchange, shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Owner Trustee duly executed by the Note Holder thereof or his attorney duly authorized in writing, and the Owner Trustee may require evidence satisfactory to it as to the compliance of any such transfer with the Securities Act. The Indenture Trustee shall make a notation on each new Note or Notes of the amount of all payments of principal previously made on the old Note or Notes with respect to which such new Note is issued and the date to which interest accrued on such old Note or Notes has been paid.

The Indenture Trustee shall not be required to register the transfer of or exchange any surrendered Notes as above provided during the five calendar day period preceding the due date of any payment on such Notes. Except as otherwise agreed by the Owner Trustee, (a) the Owner Trustee shall not be obligated to issue any new Note to any holder if as a result the outstanding Notes would be held by more than a total of fifteen different investors unrelated in decision-making authority and (b) each holder of any new Note shall, as a condition to the effectiveness of the transfer resulting in the issuance of such new Note, agree to be bound by Section 8.1 and Section 8.6 of the Participation Agreement. The Owner Trustee and the Indenture Trustee shall treat the Person in whose name each Note is registered on the Note Register as the Note Holder with respect thereto for all purposes hereof. The Indenture Trustee shall give the Lessee and each Note Holder notice of such transfer of a Note under this Section 2.07.

SECTION 2.08. Mutilated, Destroyed, Lost or Stolen Notes. If any Note shall become mutilated, destroyed, lost or stolen, the Owner Trustee shall, upon the written request of the affected Note Holder, execute, and the Indenture Trustee shall authenticate and deliver in replacement thereof, a new Note, of the same series as such Note, in the same principal amount, dated the date of such Note and designated as issued under this Indenture. If the Note being replaced has become mutilated, such Note shall be surrendered to the Indenture Trustee and a photocopy thereof shall be furnished to the Owner Trustee by the Indenture Trustee. If the Note being replaced has been destroyed, lost or stolen, the affected Note Holder shall furnish to the Owner Trustee and the Indenture Trustee such security or indemnity as may be reasonably required by them to hold the Owner Trustee and the Indenture Trustee harmless and evidence satisfactory to the Owner Trustee and the Indenture Trustee of the destruction, loss or theft of such Note and of the ownership thereof; provided, however, that if the affected Note Holder is an original party to the Participation Agreement or an Affiliate thereof, the written notice of such destruction, loss or theft and such ownership and the written undertaking of such Note Holder delivered to the Owner Trustee and the Indenture Trustee to hold harmless the Owner Trustee and the Indenture Trustee in respect of the execution, authentication and delivery of such new Note shall be sufficient evidence, security and indemnity.

SECTION 2.09. Payment of Expenses on Transfer. Upon the issuance of a new Note or new Notes pursuant to Section 2.07 or 2.08, the Owner Trustee and/or the Indenture Trustee may

require from the party requesting such new Note or Notes payment of a sum sufficient to reimburse the Owner Trustee and/or the Indenture Trustee for, or to provide funds for, the payment of any tax or other governmental charge in connection therewith paid or payable by the Owner Trustee or the Indenture Trustee.

SECTION 2.10. Prepayment. The Notes shall be subject to prepayment, and shall be prepaid by the Owner Trustee, at a prepayment price equal to the unpaid principal amount of the Notes to be prepaid in accordance with the provisions of this Section 2.10, plus accrued interest on such principal amount to the date fixed for prepayment, on the following terms:

(a) If an Event of Loss shall have occurred with respect to any Unit or Units, the Notes shall be prepaid, in whole or in part, in an aggregate principal amount equal to the Loan Value of the Unit or Units for which settlement is then being made, on the date on which the Lessee shall be required by the provisions of Section 11.1 of the Lease to pay the Stipulated Loss Value in respect of such Event of Loss.

(b) If the Lessee shall have exercised its option to purchase any Unit or Units pursuant to Section 17.1.B of the Lease, the Notes shall be prepaid, in whole or in part, in an aggregate principal amount equal to the Loan Value of the Unit or Units for which settlement is then being made, on the date on which the Lessee shall be required by the provisions of Section 17.1.B of the Lease to pay the purchase price of the Units in respect of such purchase option.

The Owner Trustee will give notice of prepayment under this Section 2.10 (which notice shall be irrevocable) promptly after receipt of the Lessee's notice of payment under Section 11.1 or 17.1.B of the Lease, as the case may be.

SECTION 2.11. Provisions Relating to Prepayment.

(a) The Owner Trustee shall have no right to prepay the principal amount of the Notes, in whole or in part, except as permitted by Section 2.10. Notice of prepayment having been given as aforesaid, the principal amount of the Notes so to be prepaid, plus accrued interest thereon to the date of prepayment, shall become due and payable on the prepayment date.

(b) On the date fixed for prepayment under Section 2.10, the Owner Trustee shall deposit dollars, in immediately available funds in the account of the Indenture

Trustee at the place and by the time and otherwise in the manner provided in Section 2.04, in an amount equal to the principal amount of Notes to be prepaid together with accrued and unpaid interest thereon to the date fixed for such prepayment and all other amounts due to the holders of the Notes hereunder, thereunder and under the other Operative Documents.

SECTION 2.12. Purchase Upon a Lease Event of Default.

At any time while either (x) a Lease Event of Default has occurred and has been continuing for a period of 180 days during which the Note Holders or the Indenture Trustee shall not have been stayed or otherwise precluded by operation of law from taking action to accelerate the Notes or to exercise remedies hereunder or under the Lease, or (y) the Notes shall have become due and payable as provided in Section 4.04(b) or 4.04(c), and, provided in either case that no Indenture Default which is not a Lease Default shall have occurred and be continuing, the Owner Participant may at any time within 60 days thereafter elect to purchase all, but not less than all, Notes then outstanding. Upon receipt of written notice of such election from the Owner Participant, which notice in order to be effective shall state that it is irrevocable and shall designate a date not more than fourteen calendar days thereafter as the purchase date, each Note Holder agrees that it will, upon payment to it in the manner provided for in Section 2.04 from the Owner Participant of an amount equal to the aggregate unpaid principal amount of all Notes then held by such Note Holder, together with accrued and unpaid interest thereon to the date of payment (and all other sums then due and payable to such Note Holder hereunder, under such Notes and the other Operative Documents), forthwith sell, assign, transfer and convey to the Owner Participant (without recourse, representation or warranty of any kind except for its own acts), all of the right, title and interest of such Note Holder in and to the Indenture Estate, this Indenture, all Notes held by such Note Holder and the other Operative Documents (excluding all right, title and interest under any of the foregoing to the extent such right, title or interest is with respect to an obligation not then due and payable or past due (other than any claims in respect of past due interest to the extent included in the purchase price of the Notes), with respect to any action or inaction or state of affairs occurring prior to such sale) and the Owner Participant shall assume all of such Note Holder's obligations under the other Operative Documents and this Indenture. If the Owner Participant shall so request, such Note Holder will comply with all the provisions of Section 2.07 (other than those relating to Securities Act compliance) to enable new Notes to be issued to the Owner Participant in such

denominations as the Owner Participant shall request. In the case of any such purchase, the Owner Participant shall furnish to the Note Holders an opinion of counsel for the Owner Participant satisfactory to the Note Holders that such transfer and conveyance are exempt from registration under the Securities Act, and do not violate any registration provision of any applicable state laws regulating the sales of securities. All charges and expenses required pursuant to Section 2.09 in connection with the issuance of any such new Note pursuant to this Section shall be borne by the Owner Participant.

ARTICLE III

RECEIPT, DISTRIBUTION AND APPLICATION OF INCOME FROM THE TRUST INDENTURE ESTATE

SECTION 3.01 (a). Basic Rent Distribution. Except as otherwise provided in Section 3.03, each installment of Interim Rent or Basic Rent, any payment of interest payable on any Interest Payment Date or on overdue installments of Interim Rent or Basic Rent and any payment received by the Indenture Trustee as contemplated by Section 4.03 shall be promptly distributed in the following order of priority:

first, so much of such installment or payment as shall be required to pay in full the aggregate amount of the payment or payments of principal and interest and other amounts (as well as any interest on overdue principal and, to the extent permitted by law, on interest and other amounts) then due on or in respect of the Notes shall be distributed to the holders thereof ratably, without priority of any one Note over any other Note, in the proportion that the amount of such payment or payments then due under each Note bears to the aggregate amount of the payments then due under all Notes;

second, the balance, if any, of such installment or payment remaining thereafter shall be distributed to the Owner Trustee for distribution pursuant to the Trust Agreement; provided, however, that if an Indenture Default shall have occurred and be continuing, then such balance shall not be distributed as provided in this clause "second" but shall be held by the Indenture Trustee as part of the Indenture Estate until whichever of the following shall first occur: (i) all Indenture Defaults shall have been cured, in which event such balance shall, to the extent not

theretofore distributed as provided herein, be distributed as provided in this clause "second", or (ii) Section 3.02 or Section 3.03 shall be applicable, in which event such balance shall be distributed in accordance with the provisions of said Section 3.02 or Section 3.03, as the case may be.

(b) Application of Other Amounts Held by Indenture Trustee Upon Rent Default. Except as otherwise provided in Section 3.03, if (i) as a result of any failure by the Lessee to pay Basic Rent in full on any date when an installment of Basic Rent is due, or (ii) for any other reason there shall not have been distributed on any Lease Payment Date the full amount then distributable pursuant to clause "first" of Section 3.01(a), the Indenture Trustee shall, if so requested by a Majority in Interest of Note Holders, distribute other payments of the character referred to in Section 3.04(b) then held by it or thereafter received by it, to the holders of all Notes to the extent necessary to enable the Indenture Trustee to make all the distributions then due pursuant to such clause "first."

SECTION 3.02. Lease Termination and Event of Loss.

(a) Except as otherwise provided in Section 3.03, any payment received by the Indenture Trustee as the result of the Lessee's exercise of its early purchase option as provided in Section 17.1.B. thereof or as a result of the occurrence of an Event of Loss with respect to any Unit or Units shall be applied to prepayment of the Notes and to all other amounts payable thereunder or hereunder or under the other Operative Documents as provided in Section 2.10 by applying such funds in the following order of priority: first, so much of such payment as shall be necessary to reimburse the Indenture Trustee for any costs or expenses incurred in connection with such prepayment shall be paid to the Indenture Trustee, second, so much of such payment as shall be necessary to pay all amounts then due to the holders of the Notes pursuant to said Section 2.10 shall be distributed to such holders, ratably, without priority of any one Note holder over any other such holder in the proportion that the amount of such payment or payments then due under each Note bears to the aggregate amount of the payments then due under all Notes; and third, the balance, if any of such payment remaining thereafter shall be distributed in the manner set forth in clause "sixth" of Section 3.03.

(b) Except as otherwise provided in Section 3.03, any amounts received directly or indirectly from any governmental

authority, insurer or other party pursuant to any provision of Section 10 or 11.1 of the Lease or otherwise as the result of loss or damage not constituting such an Event of Loss with respect to any Unit or Units or as a result of such loss or damage constituting such an Event of Loss if and to the extent that such amounts would at the time be required to be paid to the Lessee pursuant to said Section 10 or 11.1 but for the fact that a Lease Event of Default shall have occurred and be continuing, shall be held by the Indenture Trustee, as security for the obligations of the Lessee under the Operative Documents and shall be invested in accordance with the terms of Section 3.07 and at such time as the conditions for payment to the Lessee specified in said Section 10 or 11.1, as the case may be, shall be fulfilled and there shall not be continuing any Lease Event of Default, such amount, and the proceeds of any investment thereof, shall, to the extent not applied to such obligations of the Lessee, be paid to the Lessee to the extent provided in the Lease.

SECTION 3.03. Payment After Indenture Event of Default, etc. Except as otherwise provided in Sections 3.04(c) and 3.05(ii), all payments received and amounts held or realized by the Indenture Trustee after an Indenture Event of Default shall have occurred and so long as such an Indenture Event of Default shall be continuing, and after the Indenture Trustee has received a request in accordance with the first sentence of Section 5.02(b) or after the Indenture Trustee shall foreclose or enforce this Indenture or after the Notes shall have become due and payable as provided in Section 4.04(b) or (c), as well as all payments or amounts then held by the Indenture Trustee as part of the Indenture Estate, shall be promptly distributed by the Indenture Trustee in the following order of priority:

first, so much of such payments or amounts as shall be required to indemnify the Indenture Trustee and to reimburse the Indenture Trustee for its fees and any tax, expense, charge or other loss (including, without limitation, all amounts to be expended at the expense of, or charged upon the tolls, rents, revenues, issues, income, products and profits of, the property included in the Indenture Estate pursuant to Section 4.05(b)) incurred by the Indenture Trustee (to the extent not previously reimbursed) (including, without limitation, the expenses of any sale, taking or other proceeding, attorneys' fees and expenses, court costs, and any other expenditures incurred or expenditures or advances made by the Indenture Trustee in the protection, exercise or enforcement of any right, power

or remedy or any damages sustained by the Indenture Trustee, liquidated or otherwise, upon such Indenture Event of Default) shall be applied by the Indenture Trustee in reimbursement of such expenses;

second, so much of such payments or amounts remaining as shall be required to reimburse the holders of the Notes in full for payments made pursuant to Section 5.03 (to the extent not previously reimbursed) shall be distributed to such holders, and if the aggregate amount remaining shall be insufficient to reimburse all such payments in full, it shall be distributed ratably, without priority of any Note over any other, in the proportion that the aggregate amount of the unreimbursed payments made by each such holder of Notes pursuant to Section 5.03 bears to the aggregate amount of the unreimbursed payments made by all holders of Notes pursuant to Section 5.03;

third, so much of such payments or amounts remaining as shall be required to pay in full to the holders of Notes all other amounts payable pursuant to the indemnification provisions of Section 7 of the Participation Agreement or pursuant to any other provision of any Operative Document and secured hereunder (other than amounts payable pursuant to clause "second", "fourth" or "fifth" of this Section 3.03) to the holders of Notes and remaining unpaid shall be distributed to such holders, and if the aggregate amount remaining shall be insufficient to pay all such amounts in full, it shall be distributed ratably, without priority of any Note over any other, in the proportion that the aggregate amount due each holder of Notes under this clause "third" bears to the aggregate amount due all holders of Notes under this clause "third";

fourth, so much of such payments or amounts remaining as shall be required to pay in full the aggregate amount of all due but unpaid accrued interest to the date of distribution on the Notes shall be distributed to the holders of the Notes, and if the aggregate amount remaining shall be insufficient to pay all such amounts in full, it shall be distributed ratably, without priority of any one Note over any other, in the proportion that the aggregate amount of all due but unpaid accrued interest to the date of distribution on each Note bears to the aggregate amount of all due but unpaid accrued interest to the date of distribution on all Notes;

fifth, so much of such payments or amounts remaining as shall be required to pay in full the aggregate unpaid principal amount of all Notes shall be distributed to the holders of the Notes, and if the aggregate amount remaining shall be insufficient to pay all such amounts in full, it shall be distributed ratably, without priority of any one Note over any other, in the proportion that the aggregate unpaid principal amount of each Note bears to the aggregate unpaid principal amount of all Notes; and

sixth, the balance, if any, of such payments or amounts remaining thereafter shall be distributed to the Owner Trustee for distribution pursuant to the Trust Agreement.

SECTION 3.04. Certain Payments.

(a) Except as otherwise provided in this Indenture, any payments received by the Indenture Trustee for which provision as to the application thereof is made in the Lease or the Participation Agreement shall be applied forthwith to the purpose for which such payment was made in accordance with the terms thereof.

(b) Except as otherwise provided in Section 3.01(b), Section 3.02(a) or Section 3.03, the Indenture Trustee will distribute, promptly upon receipt, any indemnity payment or payment of damages received by it either pursuant to Section 7 of the Participation Agreement or as Supplemental Rent or otherwise, directly to the Person entitled thereto.

(c) Notwithstanding anything to the contrary contained in this Indenture, any sums received by the Indenture Trustee which constitute Excepted Rights in Collateral shall be distributed promptly upon receipt by the Indenture Trustee directly to the Person or Persons entitled thereto.

SECTION 3.05. Other Payments. Any payments received by the Indenture Trustee for which no provision as to the application thereof is made in this Indenture shall be distributed by the Indenture Trustee (i) to the extent received or realized at any time prior to the payment in full of all obligations to the Note Holders secured by the Lien of this Indenture, in the order of priority specified in Section 3.03, and (ii) to the extent received or realized at any time after payment in full of all obligations to the Note Holders secured by the Lien of this Indenture, in the following order of priority: first, in the manner provided in the clause "first" of

Section 3.03 and second, in the manner provided in clause "sixth" of Section 3.03.

SECTION 3.06. Payments to Owner Trustee. Any amounts distributed hereunder by the Indenture Trustee to the Owner Trustee shall be paid to the Owner Trustee by wire transfer of funds of the type received by the Indenture Trustee at such office and to such account or accounts of such entity or entities as shall be designated by notice from the Owner Trustee to the Indenture Trustee from time to time. The Owner Trustee hereby notifies the Indenture Trustee that unless and until the Indenture Trustee receives notice to the contrary from the Owner Trustee, all amounts to be distributed to the Owner Trustee pursuant to clause "second" of Section 3.01(a) shall be distributed by wire transfer of funds of the type received by the Indenture Trustee to the account of the Owner Participant specified in Schedule 1 to the Participation Agreement or to such other account of the Owner Participant as the Owner Participant may specify by notice to the Indenture Trustee.

SECTION 3.07. Investment of Amounts Held by Indenture Trustee. Any amounts held by the Indenture Trustee pursuant to the proviso set forth in clause "second" of Section 3.01(a), pursuant to Section 3.02, pursuant to the second proviso to the fourth sentence of Section 4.03 or pursuant to any provision of any other Operative Document providing for amounts to be held by the Indenture Trustee shall be invested by the Indenture Trustee from time to time in Permitted Investments selected by the Owner Trustee or, in the event the Owner Trustee shall so specify, as selected by the Lessee. Unless otherwise expressly provided in this Indenture, any income realized as a result of any such investment, net of the Indenture Trustee's reasonable fees and expenses in making such investment, shall be held and applied by the Indenture Trustee in the same manner as the principal amount of such investment is to be applied and any losses, net of earnings and such reasonable fees and expenses, shall be charged against the principal amount invested. The Indenture Trustee shall not be liable for any loss resulting from any investment made by it under this Indenture other than by reason of its willful misconduct or gross negligence, and any such investment may be sold (without regard to its maturity) by the Indenture Trustee pursuant to instruction therefor from the Owner Trustee.

ARTICLE IV

COVENANTS; EVENTS OF DEFAULT;
REMEDIES OF INDENTURE TRUSTEESECTION 4.01. Covenants of the Trust Company and the Owner Trustee.

(a) The Trust Company hereby covenants and agrees that it will not directly or indirectly create, incur, assume or suffer to exist any Lessor Liens attributable to it with respect to any of the properties or assets of the Indenture Estate and it shall, at its own cost and expense, promptly take such action as may be necessary to discharge duly any such Lessor Lien. The Trust Company will cause restitution to be made to the Indenture Estate in the amount of any diminution of the value thereof as the result of any Lessor Liens thereon attributable to it.

(b) The Owner Trustee hereby covenants and agrees as follows:

(i) the Owner Trustee will duly and punctually perform its obligations under the Lease and will duly and punctually pay the principal of, and interest on, and all other amounts due under the Notes and hereunder in accordance with the terms of the Notes and this Indenture and all amounts payable by it to the Note Holders under the Participation Agreement and the other Operative Documents;

(ii) the Owner Trustee will not directly or indirectly create, incur, assume or suffer to exist any Lessor Liens with respect to any of the properties or assets of the Indenture Estate, and shall, at its own cost and expense, promptly take such action as may be necessary to discharge duly any such Lessor Lien, and the Owner Trustee will cause restitution to be made to the Indenture Estate in the amount of any diminution of the value thereof as the result of any Lessor Liens attributable to it;

(iii) in the event a responsible officer in the Corporate Trust Administration of the Owner Trustee shall have actual knowledge of an Indenture Event of Default or an Event of Loss, the Owner Trustee will give prompt written notice of such Indenture Event of

Default or Event of Loss to the Indenture Trustee, the Lessee and each Note Holder;

(iv) the Owner Trustee will furnish to the Indenture Trustee, and the Indenture Trustee will furnish to each Note Holder at the time outstanding, promptly upon receipt thereof, duplicates or copies of all reports, notices, requests, demands, notes, financial statements and other instruments furnished to the Owner Trustee under the Lease, including, without limitation, a copy of each report or notice received pursuant to Section 10 of the Lease, to the extent that the same shall not have been furnished directly to such Note Holder or the Indenture Trustee pursuant to the Lease;

(v) the Owner Trustee will not (except as permitted herein) assign or pledge or otherwise dispose of, so long as this Indenture shall remain in effect and shall not have been terminated pursuant to Section 10.01, any of its right, title or interest hereby assigned to anyone other than the Indenture Trustee, and, with respect to such right, title and interest hereby assigned, will not, except as provided in this Indenture, (1) accept any payment from the Lessee or any sublessee, enter into any agreement amending or supplementing any of the Indenture Documents, execute any waiver or modification of, or consent under, the terms of any of the Indenture Documents, (2) exercise any rights with respect to the Indenture Estate, (3) settle or compromise any claim arising under any of the Indenture Documents, or (4) submit or consent to the submission of any dispute, difference or other matter arising under or in respect of any of the Indenture Documents to arbitration thereunder; and

(vi) the Owner Trustee will not enter into any business or other activity other than the business of owning the Units, the leasing thereof to the Lessee and the carrying out of the transactions contemplated hereby and by the Lease, the Participation Agreement, the Trust Agreement and the other Operative Documents.

SECTION 4.02. Indenture Event of Default. "Indenture Event of Default" means any of the following events (whatever the reason for such Indenture Event of Default and whether such event shall be voluntary or involuntary or come about or be effected by

operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administration or governmental body):

- (a) any Lease Event of Default; or
- (b) the failure (other than by reason of a Lease Event of Default) of the Owner Trustee to pay when due any payment of principal of, or interest on, any Note or the failure (other than by reason of a Lease Event of Default) of the Owner Trustee to pay when due any other amount due and payable hereunder, or under any Note, and such failure shall have continued unremedied for seven (7) Business Days; or
- (c) any Lessor Lien required to be discharged by the Trust Company pursuant to Section 4.01(a) or required to be discharged by the Owner Trustee pursuant to Section 4.01(b)(ii) or required to be discharged by the Owner Participant pursuant to Section 6.2 of the Participation Agreement shall remain undischarged for a period of 14 calendar days after a responsible officer of the Trust Company, the Owner Trustee or the Owner Participants, as the case may be, shall have actual knowledge of such Lessor Lien; or
- (d) any representation or warranty made by the Owner Trustee or the Owner Participant or the Trust Company herein or in the Participation Agreement, or made by any Person guaranteeing or supporting the obligations of the Owner Participant under the Operative Documents in its guarantee or support agreement, shall prove to have been false or incorrect when made in any material respect to the Note Holders; or
- (e) any failure by the Owner Trustee to observe any of its other covenants in Section 4.01(b) or any failure by the Owner Participant to observe any of its covenants in Section 6.1, 6.2, 6.4 or 6.5 of the Participation Agreement, or disaffirmance or repudiation by any Person guaranteeing or supporting the obligations of the Owner Participant under the Operative Documents of its obligations under its guarantee or support agreement; or
- (f) except as provided in the following paragraph (i), any failure by the Owner Trustee or the Trust Company to observe or perform any other covenant or obligation of the Owner Trustee or the Trust Company, as the case may be,

contained in this Indenture or in the Participation Agreement or any failure by the Owner Participant to observe or perform any other covenant or obligation of the Owner Participant contained in the Participation Agreement or any failure by any Person guaranteeing or supporting the obligations of the Owner Participant under the Operative Documents to perform any covenant or obligation of such Person under its guarantee or support agreement which, in any case, is not remedied within a period of 30 calendar days after notice thereof has been given to the Owner Trustee, the Trust Company, the Owner Participant or such Person, as the case may be; or

(g) either the Trust Estate or the Owner Trustee with respect thereto (and not in its individual capacity) or the Owner Participant or any Person guaranteeing or supporting the obligations of the Owner Participant under the Operative Documents shall (i) be generally not paying its debts as they become due, (ii) file, or consent by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, (iii) make an assignment for the benefit of its creditors, (iv) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, or (v) take corporate or comparable action for the purpose of any of the foregoing; or

(h) a court or governmental authority of competent jurisdiction shall enter an order appointing, without consent by the Trust Estate or the Owner Trustee with respect thereto (and not in its individual capacity) or the Owner Participant or any Person guaranteeing or supporting the obligations of the Owner Participants under the Operative Documents, a custodian, receiver, trustee or other officer with similar powers with respect to the Trust Estate or the Owner Trustee with respect thereto (and not in its individual capacity) or the Owner Participant or any such Person, or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Trust Estate or the Owner Trustee with respect thereto (and

not in its individual capacity) or the Owner Participant or any such Person, or if any petition for any such relief shall be filed against the Trust Estate or the Owner Trustee with respect thereto (and not in its individual capacity) or the Owner Participant or any such Person, and such petition shall not be dismissed within, or the order shall be unstayed and remain in effect for a period of, 60 days; or

(i) the Owner Trustee, the Trust Company or the Owner Participant shall do or fail to do any act, or shall meet or fail to meet any condition, and as a result thereof the lien of this Indenture shall cease to be a valid first priority lien on the Indenture Estate or shall otherwise be adversely affected.

SECTION 4.03. Certain Cure Rights. In the event of any default by the Lessee in the payment when due (without regard to any applicable grace period) of any installment of Interim Rent or Basic Rent due under the Lease, the Owner Participant may, within three (3) Business Days after notice of such default, without the consent or concurrence of any Note Holder, pay, as provided in Section 2.04, for application in accordance with Section 3.01 a sum equal to the amount of all (but not less than all) such overdue Interim Rent or Basic Rent. In the event of any default by the Lessee in any obligation under the Lease other than the payment of Interim Rent or Basic Rent, if such default can be remedied by the payment of money and the Owner Participant shall furnish the Owner Trustee with all funds necessary for remedying such default, the Owner Participant may, within five (5) Business Days after the occurrence of such default, without the consent or concurrence of any Note Holder, instruct the Owner Trustee to exercise the Owner Trustee's rights under Section 18.10 of the Lease to perform such obligation on behalf of the Lessee. Solely for the purpose of determining whether there exists an Indenture Event of Default (a) any timely payment by the Owner Participant pursuant to, and in compliance with, the first sentence of this Section 4.03 shall be deemed to remedy (but solely for purposes of this Indenture) any default by the Lessee in the payment of installments of Interim Rent or Basic Rent theretofore due and payable and to remedy (but solely for purposes of this Indenture) any default by the Owner Trustee in the payment of any amount of principal and interest due and payable under the Notes and (b) any timely performance by the Owner Trustee of any obligation of the Lessee under the Lease pursuant to, and in compliance with, the second sentence of this Section 4.03 shall be deemed to remedy (but solely for purposes of this Indenture) any Lease Event of Default to the same extent

that like performance by the Lessee itself would have remedied such Lease Event of Default (but no such remedy shall relieve the Lessee of its duty to pay all Rent and perform all of its obligations pursuant to the Lease). If, on the basis specified in the preceding sentence, any Lease Events of Default shall have been remedied, then any declaration pursuant to this Indenture that the Notes are due and payable or that an Indenture Event of Default exists hereunder, based solely upon such Lease Events of Default, shall be deemed to be rescinded, and the Owner Participant shall (to the extent of any such payments made by it) be subrogated to the rights of the holders of the Notes under Section 3.01(a), to receive from the Indenture Trustee such payment of overdue Rent (and the payment of interest on account of such Rent being overdue) and shall be entitled, so long as no other Indenture Event of Default or Indenture Default shall have occurred and be continuing or would result therefrom, to receive, subject to the provisions of this Indenture, such payment upon receipt thereof by the Indenture Trustee; provided that the Owner Participant shall not otherwise attempt to recover any such amount paid by it on behalf of the Lessee pursuant to this Section 4.03 except by demanding of the Lessee payment of such amount or by commencing an action at law against the Lessee for the payment of such amount; provided, further, that at no time while an Indenture Event of Default shall have occurred and be continuing shall any such demand be made or shall any such action be commenced (or continued), and any amounts nevertheless received by the Owner Participant in respect thereof shall be held in trust for the benefit of, and promptly paid to, the Indenture Trustee for distribution as provided in Section 3.03; and further provided that:

(x) this Section 4.03 shall not apply with respect to any default in the payment of Interim Rent or Basic Rent due under the Lease if the Lessee itself shall have theretofore failed to pay Basic Rent in the manner required under the Lease (after giving effect to any applicable grace period) on (i) each of the two (2) Lease Payment Dates immediately preceding the date of such default, or (ii) a total of four (4) Lease Payment Dates;

(y) the second sentence of this Section 4.03 shall cease to apply, and no payment by the Owner Participant in respect of Supplemental Rent or performance of any obligation of the Lessee under the Lease by the Owner Trustee shall be deemed to remedy or to have remedied any Lease Event of Default for the purposes of this Indenture, if during the twelve-month period immediately preceding the

relevant default by the Lessee there shall have been expended by the Owner Participant pursuant to the second sentence of this Section 4.03 (and which shall have not been reimbursed by the Lessee itself to the Owner Trustee for distribution to the Owner Participant) an amount in excess of [\$500,000]; and

(z) neither the Owner Trustee nor the Owner Participant shall have the right to cure any Lease Event of Default except as specified in this Section 4.03.

SECTION 4.04. Remedies.

(a) If an Indenture Event of Default shall have occurred and be continuing and so long as the same shall be continuing unremedied, then and in every such case, the Indenture Trustee may, consistent with the last sentence of this Section 4.04(a), exercise any or all of the rights and powers and pursue any and all of the remedies pursuant to this Article IV and shall have and may exercise all of the rights and remedies of a secured party under the Uniform Commercial Code, as adopted in the State of New York and, in the event such Indenture Event of Default is an Indenture Event of Default referred to in paragraph (a) of Section 4.02 and Section 4.03 hereof shall either not apply or shall have ceased to apply with respect to the relevant Lease Event of Default, any and all of the remedies pursuant to Section 13 of the Lease and all of the rights and remedies of a lessor under applicable law and may take possession of all or any part of the properties covered or intended to be covered by the Lien and security interest created hereby or pursuant hereto and may exclude the Owner Participant, the Owner Trustee and the Lessee and all persons claiming under any of them wholly or partly therefrom. Without limiting any of the foregoing, it is understood and agreed that the Indenture Trustee may exercise any right of sale of the Units available to it, even though it shall not have taken possession of the Units and shall not have possession thereof at the time of such sale. It is further understood and agreed that if the Indenture Trustee shall proceed to foreclose the Lien of this Indenture, it shall, to the extent that it is then entitled to do so hereunder and under the Lease, and is not then stayed or prevented from doing so by operation of law or otherwise, proceed (to the extent it has not already done so) to exercise one or more of the remedies referred to in Section 13 of the Lease (as it shall determine in its sole good faith discretion); and for the avoidance of doubt, it is expressly understood and agreed that the above-described inability of the Indenture Trustee to exercise any right or

remedy under the Lease shall in no event and under no circumstance prevent the Indenture Trustee from exercising all of its rights, powers and remedies under this Indenture, including without limitation this Article IV; provided, however, that if the Indenture trustee is unable to exercise its rights under the Lease because of the imposition of an automatic stay under Section 362 of the Federal Bankruptcy Code in a proceeding with respect to the Lessee, the Indenture Trustee agrees that it shall not foreclose the Lien of this Indenture until the earlier of (i) the date which is sixty days following the imposition of such automatic stay or (ii) the date on which such automatic stay no longer applies to the Lease.

(b) If an Indenture Event of Default referred to in clause (g) or (h) of Section 4.02 shall have occurred, or a Lease Event of Default of the type referred to in clause (g) or (h) of said Section 4.02 shall have occurred with respect to the Lessee, then and in every such case the unpaid principal of all Notes then outstanding, together with interest accrued but unpaid thereon, and all other amounts due to the holders of the Notes thereunder and hereunder and under the other Operative Documents, shall, unless the Indenture Trustee acting upon the instructions of the Majority in Interest of Note Holders shall otherwise direct, immediately and without further act become due and payable, without presentment, demand, protest or notice, all of which are hereby waived.

(c) If any other Indenture Event of Default shall have occurred and be continuing, then and in every such case, the Indenture Trustee may at any time, by written notice or notices to the Owner Trustee, declare all the Notes to be due and payable, whereupon the unpaid principal of all Notes then outstanding, together with accrued but unpaid interest thereon, and all other amounts due to the holders of the Notes thereunder, hereunder and under the other Operative Documents, shall immediately and without further act become due and payable without presentment, demand, protest or other notice, all of which are hereby waived.

(d) Each Note Holder shall be entitled, at any sale pursuant to Section 12.1.4 of the Lease or this Article IV, to credit against any purchase price bid at such sale by such Note Holder all or any part of the unpaid obligations owing to such Note Holder and secured by the Lien of this Indenture. The Indenture Trustee and the Note Holders shall, upon any such purchase, acquire good title to the property so purchased, to the

extent permitted by applicable law, free of all rights of redemption.

SECTION 4.05. Return of Units, etc.

(a) If an Indenture Event of Default shall have occurred and be continuing, subject to Section 4.03, at the request of the Indenture Trustee the Owner Trustee shall promptly execute and deliver to the Indenture Trustee such instruments of title and other documents as the Indenture Trustee may deem necessary or advisable to enable the Indenture Trustee or an agent or representative designated by the Indenture Trustee, at such time or times and place or places as the Indenture Trustee may specify, to obtain possession of all or any part of the Indenture Estate to which the Indenture Trustee shall at the time be entitled hereunder. If the Owner Trustee shall for any reason fail to execute and deliver such instruments and documents after such request by the Indenture Trustee, the Indenture Trustee may (i) obtain a judgment conferring on the Indenture Trustee the right to immediate possession and requiring the Owner Trustee to execute and deliver such instruments and documents to the Indenture Trustee, to the entry of which judgment the Owner Trustee hereby specifically consents, and (ii) pursue all or part of the Indenture Estate wherever such Estate may be found and may enter any of the premises of the Lessee wherever it may be or be supposed to be and search for and take possession of and remove the same. All expenses of obtaining such judgment or of pursuing, searching for and taking such property shall, until paid, be secured by the Lien of this Indenture.

(b) Upon every such taking of possession, the Indenture Trustee may, from time to time, at the expense of the Indenture Estate, make all such expenditures for maintenance, insurance, repairs, replacements, alterations, additions and improvements to and of the Indenture Estate, as it may deem proper. In each such case, the Indenture Trustee shall have the right to maintain, use, operate, store, lease, control or manage the Indenture Estate and to carry on the business and, without limiting the express provisions of Section 5.06, to exercise all rights and powers of the Owner Participant and the Owner Trustee relating to the Indenture Estate, including the right to enter into any and all such agreements with respect to the maintenance, insurance, use, operation, storage, leasing, control, management or disposition of the Indenture Estate or any part thereof as the Indenture Trustee may determine; and except for Excepted Rights in Collateral, the Indenture Trustee shall be entitled to collect and receive directly all tolls, rents (including Rent), revenues,

issues, income, products and profits of the Indenture Estate and every part thereof. Such tolls, rents (including Rent), revenues, issues, income products and profits shall be applied to pay the expenses of the use, operation, storage, leasing, control, management or disposition of the Indenture Estate and of conducting the business thereof, and of all maintenance, repairs, replacements, alterations, additions and improvements, and to make all payments which the Indenture Trustee may be required or may elect to make, if any, for taxes, assessments, insurance or other proper charges upon the Indenture Estate or any part thereof (including the employment of engineers and accountants to examine, inspect and make reports upon the properties and books and records of the Owner Trustee), and all other payments which the Indenture Trustee may be required or authorized to make under any provision of this Indenture, as well as just and reasonable compensation for the services of the Indenture Trustee, and of all persons properly engaged and employed by the Indenture Trustee.

SECTION 4.06. Remedies Cumulative. Each and every right, power and remedy given to the Indenture Trustee specifically or otherwise in this Indenture shall be cumulative and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Indenture Trustee, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy. No delay or omission by the Indenture Trustee in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of the Owner Trustee or the Lessee or to be an acquiescence therein.

SECTION 4.07. Discontinuance of Proceedings. In case the Indenture Trustee shall have instituted any proceeding to enforce any right, power or remedy under this Indenture by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Indenture Trustee, then and in every such case the Owner Trustee, the Indenture Trustee and the Lessee shall, subject to any determination in such proceedings, be restored to their former positions and rights hereunder with respect to the Indenture Estate, and all rights, remedies and

powers of the Indenture Trustee shall continue as if no such proceedings had been instituted.

SECTION 4.08. Waiver of Past Defaults. Upon written instructions from a Majority in Interest of Note Holders, the Indenture Trustee shall waive any past Indenture Default or Indenture Event of Default hereunder and its consequences and upon any such waiver such Default shall cease to exist and any Indenture Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other Indenture Default or Indenture Event of Default or impair any right consequent thereon; provided, however, that in the absence of written instructions from all Note Holders, the Indenture Trustee shall not waive any Indenture Default (i) in the payment of the principal of, or interest on, or other amounts due under, any Note then outstanding, or (ii) in respect of a covenant or provision hereof which, under Section 9.01, cannot be waived without the consent of each Note Holder.

ARTICLE V

DUTIES OF THE INDENTURE TRUSTEE

SECTION 5.01. Notice of Indenture Event of Default; Other Notices.

(a) In the event the Indenture Trustee shall have knowledge of an Indenture Event of Default or of an Indenture Default arising from a failure to pay Interim Rent or Basic Rent, the Indenture Trustee shall forthwith give telephone notice thereof to the Owner Trustee, the Owner Participant, the Lessee and the Note Holders (promptly confirmed by telex or facsimile to such Persons not later than one Business Day thereafter). Subject to the terms of Sections 4.08 and 5.03, the Indenture Trustee shall take such action, or refrain from taking such action, with respect to any such Indenture Event of Default (including with respect to the exercise of any rights or remedies hereunder) as the Indenture Trustee shall be instructed in writing by the Majority in Interest of Note Holders. Subject to the provisions of Section 5.03, if the Indenture Trustee shall not have received instructions as above provided within 20 calendar days after mailing notice of such Indenture Event of Default to the Note Holders, the Indenture Trustee may, subject to instructions thereafter received pursuant to the preceding provisions of this Section 5.01, take such action, or refrain from taking such

TRUST INDENTURE

action, but shall be under no duty to take or refrain from taking any action, with respect to any such Indenture Event of Default as it shall determine advisable in the best interests of the Note Holders and shall use the same degree of care and skill in connection therewith as a prudent man would use under the circumstances in the conduct of his own affairs; provided that the Indenture Trustee may not sell any Unit without the consent of the Majority in Interest of Note Holders. In the event the Indenture Trustee shall at any time foreclose or otherwise enforce this Indenture, the Indenture Trustee shall forthwith notify the Note Holders, the Owner Trustee, the Owner Participant and the Lessee. For all purposes of this Indenture, in the absence of actual knowledge on the part of an officer in its Corporate Trust Administration Division, in the case of the Indenture Trustee, or its Corporate Trust Department, in the case of the Owner Trustee, the Indenture Trustee or the Owner Trustee, as the case may be, shall not be deemed to have knowledge of any Indenture Default or any Lease Event of Default or any event which, with the passage of time or giving of notice or both, would become a Lease Event of Default (except, in the case of the Indenture Trustee, the failure of the Lessee to pay any installment of Interim Rent or Basic Rent when due, which failure shall constitute knowledge of an Indenture Default) unless notified in writing by the Lessee, the Owner Trustee or one or more Note Holders. This Section 5.01, however, is subject to the condition that, if at any time after the principal of the Notes shall have become due and payable pursuant to Section 4.04(b) or (c) and before any judgment or decree for the payment of the money so due, or any thereof, shall be entered, all overdue payments of interest upon the Notes and all other amounts payable under the Notes (except the principal of the Notes which by such declaration shall have become payable) shall have been duly paid, and every other Indenture Default and Indenture Event of Default with respect to any covenant or provision of this Indenture shall have been cured, then and in every such case a Majority in Interest of Note Holders may (but shall not be obligated to), by written instrument filed with the Indenture Trustee, rescind and annul such acceleration and its consequences; but no such rescission or annulment shall extend to or affect any subsequent Indenture Default or Indenture Event of Default or impair any right consequent thereon.

(b) The Indenture Trustee will furnish to each Note Holder promptly upon receipt thereof, duplicates or copies of all reports, notices, requests, demands, notes, financial statements and other instruments furnished to the Indenture Trustee under any Operative Document or received from the Owner Trustee

pursuant to Section 4.01(b)(iv) to the extent the same shall not have been otherwise directly distributed to the Note Holders pursuant to the express provision of any other Operative Document.

SECTION 5.02. Action Upon Instructions. (a) Subject to the terms of Sections 4.08, 5.01, 5.03 and 5.06, upon the written instructions at any time and from time to time of a Majority in Interest of Note Holders, the Indenture Trustee shall take such of the following actions as may be specified in such instructions: (i) exercise such election or option, or make such decision or determination, or give such notice, consent, waiver or approval or exercise such right, remedy or power or take such other action hereunder or under any other Operative Document or in respect of any part or all of the Indenture Estate as shall be specified in such instructions; (ii) take such action with respect to, or to preserve or protect, the Indenture Estate (including the discharge of Liens) as shall be specified in such instructions and as are consistent with this Indenture; and (iii) take such other action in respect of the subject matter of this Indenture as is consistent with the terms hereof and the other Indenture Documents. The Indenture Trustee will execute and the Owner Trustee will file or cause to be filed such continuation statements with respect to financing statements relating to the security interest created hereunder in the Indenture Estate as may be specified from time to time in written instructions of a Majority in Interest of Note Holders (which instructions may, by their terms, be operative only at a future date and which shall be accompanied by the execution form of such continuation statement so to be filed).

(b) If any Lease Event of Default shall have occurred and be continuing, on request of a Majority in Interest of Note Holders, the Indenture Trustee shall exercise such remedies under Section 13 of the Lease as shall be specified in such request. The Indenture Trustee agrees to provide to the Note Holders, the Owner Trustee and the Owner Participant concurrently with such action by the Indenture Trustee, notice of such action by the Indenture Trustee, provided that the failure to give any such notice to such Note Holders, the Owner Trustee or the Owner Participant shall not affect the validity of such action.

SECTION 5.03. Indemnification. The Indenture Trustee shall not be required to take any action or refrain from taking any action under Sections 5.01 (other than the first sentence thereof) or 5.02 or Article IV unless the Indenture Trustee shall have been indemnified by the Note Holders against any liability,

cost or expense (including counsel fees) which may be incurred in connection therewith. The Indenture Trustee shall not be under any obligation to take any action under this Indenture and nothing in this Indenture contained shall require the Indenture Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it. The Indenture Trustee shall not be required to take any action under Section 5.01 (other than the first sentence thereof) or 5.02 or Article IV, nor shall any other provision of this Indenture be deemed to impose a duty on the Indenture Trustee to take any action, if the Indenture Trustee shall have been advised by counsel that such action is contrary to the terms hereof or is otherwise contrary to law.

SECTION 5.04. No Duties Except as Specified in Indenture or Instructions. The Indenture Trustee shall not have any duty or obligation to use, operate, store, lease, control, manage, sell, dispose of or otherwise deal with the Units or any other part of the Indenture Estate, or to otherwise take or refrain from taking any action under, or in connection with, this Indenture or any part of the Indenture Estate, except as expressly provided by the terms of this Indenture or as expressly provided in written instructions from Note Holders as provided in this Indenture; and no implied duties or obligations shall be read into this Indenture against the Indenture Trustee. The Indenture Trustee agrees that it will, in its individual capacity and at its own cost and expense (but without any right of indemnity in respect of any such cost or expense under Section 7.01) promptly take such action as may be necessary to duly discharge all Liens on any part of the Indenture Estate which result from claims against it in its individual capacity not related to the mortgaging to it of the Units or the administration of the Indenture Estate or any other transaction contemplated by or pursuant to the Participation Agreement or any document included in the Indenture Estate.

SECTION 5.05. No Action Except Under Lease, Participation Agreement, Trust Indenture or Instructions. The Owner Trustee and the Indenture Trustee agree that they will not use, operate, store, lease, control, manage, sell, dispose of or otherwise deal with the Units or any other part of the Indenture Estate except (i) in accordance with the terms of the Lease or the Participation Agreement, or (ii) in accordance with the powers granted or reserved to, or the authority conferred upon,

the Owner Trustee and the Indenture Trustee pursuant to this Indenture and in accordance with the express terms hereof.

SECTION 5.06. Certain Rights of Owner Trustee and Owner Participant. Notwithstanding any other provisions of this Indenture, including the Granting Clause, the following rights shall be reserved to the Owner Trustee or the Owner Participant, as the case may be (as separate and independent rights) to the extent described herein:

(a) at all times the Owner Trustee shall have the right, together with the Indenture Trustee, to receive from the Lessee all notices, notes, reports, filings, opinions of counsel and other documents and all information which any thereof is permitted or required to give or furnish to the Owner Trustee or the Lessor pursuant to any Indenture Document;

(b) so long as no Indenture Default shall have occurred and be continuing, the Owner Trustee shall have the right (1) to the exclusion of the Indenture Trustee but subject to and without affecting the provisions of the Lease referred to clauses (iv) and (v) of the proviso of the first sentence of Section 9.01, (i) to exercise the rights, elections and options of the Lessor to make any decision or determination and to give any notice, consent, waiver or approval with respect to any adjustments of Basic Rent and Stipulated Loss Value under Section 3.2 and 11, respectively, of the Lease and (ii) to exercise the rights, elections and options of the Lessor with respect to the termination of the Lease and solicitations of bids and appraisals all pursuant to Section 17.1 of the Lease, or with respect to renewals or purchase options and terminations to take effect upon or after the payment in full of the obligations secured hereby and (2) together with the Indenture Trustee (consent of both being required except in the case of clause (iii) below) (i) to approve as satisfactory any other accountants, inspectors, engineers or counsel to render services for or issue opinions to the Owner Trustee pursuant to express provisions of the Operative Documents, (ii) to grant such consents, approvals and waivers as may be requested under the Indenture Documents and (iii) to exercise inspection rights pursuant to Section 8.3 and 8.4 of the Lease;

(c) the Owner Trustee shall have the non-exclusive right, as Lessor, to seek specific performance of the covenants of the Lessee under the Lease relating to the protection, insurance, maintenance, possession and use of the Units, and to maintain separate insurance with respect to the Units pursuant to Section 10 of the Lease (provided that no such insurance impairs or reduces coverage under any insurance required to be maintained by the Lessee under Section 10 of the Lease); and

(d) at all times each of the Owner Trustee (as Owner Trustee, as Trust Company and as Lessor) and the Owner Participant shall have the right, to the exclusion of the Indenture Trustee, to demand, collect, sue for or receive the payment of Excepted Rights in Collateral due and payable to it.

Notwithstanding the foregoing, and subject to the provisions of Sections 4.03 and 4.04(a), the Indenture Trustee shall at all times have the right, to the exclusion of the Owner Trustee and the Owner Participant to exercise the remedies set forth in Section 13 of the Lease (other than in connection with Excepted Rights in Collateral) and in Article IV hereof.

ARTICLE VI

THE OWNER TRUSTEE AND THE INDENTURE TRUSTEE

SECTION 6.01. Acceptance of Trusts and Duties. The Indenture Trustee accepts the duties hereby created and applicable to it and agrees to perform the same but only upon the terms of this Indenture and agrees to receive and disburse all monies constituting part of the Indenture Estate in accordance with the terms hereof. The Indenture Trustee, in its individual capacity, shall not be answerable or accountable under any circumstances, except (a) for its own willful misconduct or gross negligence, (b) for its own willful misconduct or negligence in connection with its handling of funds hereunder, (c) as provided in Section 2.04 or the last sentence of Section 5.04 and (d) for liabilities that may result from the inaccuracy of any representation or warranty of the Indenture Trustee made in its individual capacity in the Participation Agreement or hereunder. None of the Owner Participant, the Trust Company or the Indenture Trustee shall be liable for any action or inaction of any other.

TRUST INDENTURE

SECTION 6.02. Absence of Duties. In the case of the Indenture Trustee, except in accordance with written instructions furnished pursuant to Section 5.01 or 5.02 hereof, and except as provided in, and without limiting the generality of, Sections 5.03 and 5.04 hereof and Section 6.3 of the Participation Agreement and, in the case of the Owner Trustee, except as provided in Section 4.01(b) hereof, Section 6.2 of the Participation Agreement and Section 6.4 of the Trust Agreement, the Indenture Trustee and the Owner Trustee shall have no duty (i) to see to any registration of the Unit or any recording or filing of the Lease or of this Indenture or any other document, or to see to the maintenance of any such registration, recording or filing, (ii) to see to any insurance, whether or not the Lessee shall be in default with respect thereto, (iii) to see to the payment or discharge of any Lien of any kind against any part of the Trust Estate or the Indenture Estate, (iv) to confirm, verify or inquire into the failure to receive any financial statements of the Lessee or (v) to inspect the Units at any time or ascertain or inquire as to the performance or observance of any of the Lessee's covenants under the Lease with respect to the Units. Except as expressly otherwise herein and in the Participation Agreement provided, the Note Holders and the Owner Participant shall not have any duty or responsibility hereunder, including, without limitation, any of the duties mentioned in clauses (i) through (v) above.

SECTION 6.03. No Representations or Warranties as to Units or Documents. NEITHER THE INDENTURE TRUSTEE NOR THE OWNER TRUSTEE NOR THE TRUST COMPANY MAKES OR SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, COMPLIANCE WITH SPECIFICATIONS, CONDITION, DESIGN, QUALITY, DURABILITY, OPERATION, MERCHANTABILITY, CONSTRUCTION, PERFORMANCE OR FITNESS FOR USE OR PURPOSE OF THE UNITS OR ANY PART THEREOF, AS TO THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, AS TO THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT, AS TO THE ABSENCE OF OBLIGATIONS BASED ON STRICT LIABILITY IN TORT OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE UNITS OR ANY PART THEREOF OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE UNITS OR ANY PART THEREOF WHATSOEVER, except that the Trust Company in its individual capacity warrants that on the Closing Date (i) the Owner Trustee shall have received whatever title was conveyed to it on the Closing Date, and (ii) the Units shall be free and clear of Lessor Liens attributable to the Trust Company. Neither the Trust Company nor the Indenture Trustee in its individual capacity makes or shall be deemed to have made any representation or warranty as to the validity, legality or

enforceability of this Indenture, the Trust Agreement, the Notes or any Indenture Document or as to the correctness of any statement contained in any thereof, except for the representations and warranties of the Trust Company and the Indenture Trustee made in their respective individual capacities under this Indenture or in the Participation Agreement. The Note Holders and the Owner Participant make no representation or warranty hereunder whatsoever.

SECTION 6.04. No Segregation of Monies; No Interest. Any monies paid to or retained by the Indenture Trustee pursuant to any provision hereof and not then required to be distributed to any Note Holder, the Lessee or the Owner Trustee as provided in Article III need not be segregated in any manner except to the extent required by law, and may be deposited under such general conditions as may be prescribed by law, and the Indenture Trustee shall not (except as otherwise provided in Section 3.07) be liable for any interest thereon; provided that any payments received or applied hereunder by the Indenture Trustee shall be accounted for by the Indenture Trustee so that any portion thereof paid or applied pursuant hereto shall be identifiable as to the source thereof.

SECTION 6.05. Reliance; Agents; Advice of Counsel. Neither the Owner Trustee nor the Indenture Trustee shall incur liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper believed by it to be genuine and believed by it to be signed by the proper party or parties. The Owner Trustee and the Indenture Trustee may accept a copy of a resolution of the Board of Directors of any party to the Participation Agreement, certified by the Secretary or an Assistant Secretary thereof as duly adopted and in full force and effect, as conclusive evidence that such resolution has been duly adopted and that the same is in full force and effect. As to the aggregate principal amount of Notes outstanding as of any date, the Owner Trustee may for all purposes hereof rely on a certificate signed by any Vice President or other authorized corporate trust officer of the Indenture Trustee stating the principal amount of the Notes shown to be outstanding on the Note Register at such date. As to any fact or matter relating to the Lessee the manner of ascertainment of which is not specifically described herein, the Owner Trustee and the Indenture Trustee may for all purposes hereof rely on an Officer's Certificate of the Lessee, as to such fact or matter, and such Officer's Certificate shall constitute full protection to the Owner Trustee and the Indenture Trustee for any action taken or omitted to be taken by

them in good faith in reliance thereon. The Indenture Trustee shall assume, and shall be fully protected in assuming, that the Owner Trustee is authorized by the Trust Agreement to enter into this Indenture and to take all action to be taken by it pursuant to the provisions hereof, and shall not inquire into the authorization of the Owner Trustee with respect thereto. In the administration of the trusts hereunder, the Owner Trustee and the Indenture Trustee each may execute any of the trusts or powers hereof and perform its powers and duties hereunder directly or through agents or attorneys and shall not be liable for the negligence of any agent or any attorney and may, at the expense of the Indenture Estate, advise with counsel, accountants and other skilled persons to be selected and retained by it, and the Owner Trustee and the Indenture Trustee shall not be liable for anything done, suffered or omitted in good faith by them in accordance with the written advice or written opinion of any such counsel, including counsel for the Lessee, accountants or other skilled persons.

SECTION 6.06. Capacity in Which Acting. Each of the Owner Trustee and the Indenture Trustee acts hereunder solely as trustee herein, and, in the case of the Owner Trustee, as provided in the Trust Agreement, and not in its individual capacity, except as otherwise expressly provided in the Operative Documents.

SECTION 6.07. Compensation. The Indenture Trustee shall be entitled to reasonable compensation, including expenses and disbursements, for all services rendered hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and shall have a priority claim on the Indenture Estate for the payment of such compensation, to the extent that such compensation shall not be paid by the Lessee or others, as required under the Indenture Documents, and shall have the right to use or apply any monies held by it hereunder in the Indenture Estate toward such payments. The Indenture Trustee agrees that it shall have no right against the Note Holders or (except as provided in the Participation Agreement) the Owner Participant for any fee as compensation for its services as trustee under this Indenture.

SECTION 6.08. May Become Note Holder. Each of the institutions acting as Owner Trustee and Indenture Trustee hereunder may in its individual or any other capacity become a Note Holder and have all rights and benefits of a Note Holder and may otherwise deal with the Lessee or any other Person who is a

party to any of the Operative Documents to the same extent as if it were not the institution acting as Owner Trustee or Indenture Trustee, as the case may be.

SECTION 6.09. Further Assurances; Filing and Recording. At any time and from time to time, upon the request of the Indenture Trustee or Lessee (provided that any such request of Lessee is accompanied by an opinion of counsel satisfactory to a Majority in Interest of Note Holders, to the effect that the action so requested is necessary to enable Lessee to comply with an Operative Document and does not conflict with any Operative Document), the Owner Trustee shall promptly and duly execute and deliver any and all such further instruments and documents as may be specified in such request and as are necessary or desirable to perfect, preserve or protect the mortgage, security interests and assignments created or intended to be created hereby, or to obtain for the Indenture Trustee the full benefit of the specific rights and powers herein granted, including, without limitation, the due filing, recording and depositing of the Indenture and any and all supplements, modifications or amendments thereto, in conformity with the provisions of 49 U.S.C. 11303, or similar instruments relating to the perfection of the mortgage, security interests or assignments created or intended to be created hereby.

ARTICLE VII

INDEMNIFICATION OF INDENTURE TRUSTEE BY OWNER TRUSTEE

SECTION 7.01. Scope of Indemnification. The Owner Trustee, not in its individual capacity, but solely in its capacity as owner trustee under the Trust Agreement, hereby agrees to, whether or not any of the transactions contemplated hereby shall be consummated, and does hereby, indemnify, protect, save and keep harmless the Indenture Trustee in such capacity and in its individual capacity, and its successors, assigns, agents and servants, from and against any and all liabilities, obligations, losses, damages, penalties, taxes (excluding any taxes payable by the Indenture Trustee on or measured by any compensation received by the Indenture Trustee for its services under this Indenture), claims, actions, suits, costs, expenses or disbursements (including reasonable legal fees and expenses) of any kind and nature whatsoever which may be imposed on, incurred by or asserted against the Indenture Trustee in such capacity or in its individual capacity (whether or not also agreed to be

indemnified against by any other person under any other document) in any way relating to or arising out of this Indenture, the Notes, the other Indenture Documents or the enforcement of any of the terms of any thereof, or in any way relating to or arising out of the manufacture, purchase, acceptance, non-acceptance, rejection, ownership, delivery, lease, possession, use, operation, condition, sale, return or other disposition of the Units or any or any part thereof (including, without limitation, latent and other defects, whether or not discoverable, and any claim for patent, trademark or copyright infringement), or in any way relating to or arising out of the administration of the Indenture Estate or the action or inaction of the Indenture Trustee hereunder, except only (i) in the case of willful misconduct or gross negligence of the Indenture Trustee in the performance of its duties hereunder or (ii) as may result from the inaccuracy of any representation or warranty of the Indenture Trustee in its individual capacity hereunder or in the Participation Agreement, (iii) in the case of willful misconduct or negligence of the Indenture Trustee in connection with its handling of funds hereunder, (iv) as otherwise provided in Section 2.04 or the last sentence of Section 5.04 or (v) to the extent otherwise excluded by the terms of Section 7 of the Participation Agreement from the Lessee's general indemnity under said Section. The Indenture Trustee in its individual capacity shall be entitled to indemnification from the Indenture Estate for any liability, obligation, loss, damage, penalty, claim, action, suit, cost, expense or disbursement indemnified against pursuant to this Section 7.01 to the extent not reimbursed by the Lessee or others, but without releasing any of them from their respective agreements of reimbursement; and to secure the same the Indenture Trustee shall have a prior lien on the Indenture Estate. The indemnities contained in this Section 7.01 shall survive the termination of this Indenture.

ARTICLE VIII

SUCCESSOR TRUSTEES; SEPARATE TRUSTEES

SECTION 8.01. Notice of Successor Owner Trustee. In the case of any appointment of a successor to the Owner Trustee pursuant to the Trust Agreement or any merger, conversion, consolidation or sale of substantially all of the corporate trust business of the Owner Trustee pursuant to the Trust Agreement, the successor Owner Trustee shall give prompt written notice thereof to the Indenture Trustee and to each Note Holder.

TRUST INDENTURE

SECTION 8.02. Resignation of Indenture Trustee; Appointment of Successor. (a) The Indenture Trustee or any successor thereto may resign at any time without cause by giving at least 30 calendar days' prior written notice to the Owner Participant, the Lessee, the Owner Trustee and each Note Holder, such resignation to be effective upon the acceptance of the trusteeship by a successor Indenture Trustee. In addition, a Majority in Interest of Note Holders may at any time remove the Indenture Trustee without cause by an instrument in writing delivered to the Owner Participant, the Owner Trustee, the Lessee and the Indenture Trustee, and the Owner Trustee shall promptly notify each Note Holder thereof in writing, such removal to be effective upon the acceptance of the trusteeship by a successor Indenture Trustee. In the case of the resignation or removal of the Indenture Trustee, a Majority in Interest of Note Holders may appoint a successor Indenture Trustee by an instrument signed by such Holders. If a successor Indenture Trustee shall not have been appointed within 30 calendar days after such notice of resignation or removal, the Indenture Trustee, the Owner Trustee or any Note Holder may apply to any court of competent jurisdiction to appoint a successor Indenture Trustee to act until such time, if any, as a successor shall have been appointed as above provided. The successor Indenture Trustee so appointed by such court shall immediately and without further act be superseded by any successor Indenture Trustee appointed as above provided within one year from the date of the appointment by such court.

(b) Any successor Indenture Trustee, however appointed, shall execute and deliver to the Owner Trustee and to the predecessor Indenture Trustee an instrument accepting such appointment, and thereupon such successor Indenture Trustee, without further act, shall become vested with all the estates, properties, rights, powers and duties of the predecessor Indenture Trustee hereunder in the trusts hereunder applicable to it with like effect as if originally named the Indenture Trustee herein; but nevertheless upon the written request of such successor Indenture Trustee, such predecessor Indenture Trustee shall execute and deliver an instrument transferring to such successor Indenture Trustee, upon the trusts herein expressed applicable to it, all the estates, properties, rights and powers of such predecessor Indenture Trustee, and such predecessor Indenture Trustee shall duly assign, transfer, deliver and pay over to such successor Indenture Trustee all monies or other property then held by such predecessor Indenture Trustee hereunder.

(c) Any successor Indenture Trustee, however appointed, shall be a "citizen of the United States" within the meaning of Section 101(16) of the Act and shall also be a bank or trust company having a combined capital and surplus of at least \$100,000,000, if there be such an institution willing, able and legally qualified to perform the duties of the Indenture Trustee hereunder upon reasonable or customary terms.

(d) Any corporation into which the Indenture Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Indenture Trustee shall be a party, or any corporation to which substantially all the corporate trust business of the Indenture Trustee may be transferred, shall, subject to the terms of paragraph (c) of this Section, be the Indenture Trustee under this Indenture without further act.

SECTION 8.03. Appointment of Separate Trustees.

(a) At any time or times, for the purpose of meeting any legal requirements of any jurisdiction in which any part of the Indenture Estate may at the time be located or in which any action of the Indenture Trustee may be required to be performed or taken or if the Indenture Trustee shall be advised by counsel that it is so necessary or prudent in the interests of the Note Holders, or in the event the Indenture Trustee shall have been requested to do so by a Majority in Interest of Note Holders, the Indenture Trustee, by an instrument in writing signed by it, and without the concurrence of the Owner Trustee, may appoint one or more individuals or corporations to act as separate trustee or separate trustees or co-trustee, acting jointly with the Indenture Trustee, or to act as separate trustee or trustees of all or any part of the Indenture Estate with such powers as may be provided in an agreement supplemental hereto.

(b) The Indenture Trustee and, at the request of the Indenture Trustee, the Owner Trustee, shall execute, acknowledge and deliver all such instruments as may be required by the legal requirements of any jurisdiction or by any such separate trustee or separate trustees or co-trustee for the purpose of more fully confirming such title, rights or duties to such separate trustee or separate trustees or co-trustee and the Owner Trustee hereby makes, constitutes and appoints the Indenture Trustee its agent and attorney-in-fact for it and in its name, place and stead to execute, acknowledge and deliver the same in the event that the Owner Trustee shall not itself execute and deliver the same within 20 days after receipt by it of such request so to do.

Upon the acceptance in writing of such appointment by any such separate trustee or separate trustees or co-trustee, it, he or they shall be vested with such title to the Indenture Estate or any part thereof, and with such rights and duties, as shall be specified in the instrument of appointment, jointly with the Indenture Trustee (except insofar as local law makes it necessary for any such separate trustee or separate trustees or co-trustee to act alone) subject to all the terms of this Trust Indenture. Any separate trustee or separate trustees or co-trustee may, at any time by an instrument in writing, constitute the Indenture Trustee its or his attorney-in-fact and agent with full power and authority to do all acts and things and to exercise all discretion on its or his behalf and in its or his name. In case any such separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, the title to the Indenture Estate and all assets, property, rights, powers, trusts, obligations and duties of such separate trustee or co-trustee shall, so far as permitted by law, vest in and be exercised by the Indenture Trustee, without the appointment of a successor to such separate trustee or co-trustee unless and until a successor is appointed.

(c) All provisions of this Indenture which are for the benefit of the Indenture Trustee shall extend to and apply to each separate trustee or co-trustee appointed pursuant to the foregoing provisions of this Section 8.03, including without limitation Article VII.

(d) Every separate trustee and co-trustee hereunder shall, to the extent permitted by law, be appointed and act and the Indenture Trustee shall act, subject to the following provisions and conditions:

(i) all powers, duties, obligations and rights conferred upon the Indenture Trustee in respect of the receipt, custody, investment and payment of monies shall be exercised solely by the Indenture Trustee;

(ii) all other rights, powers, duties and obligations conferred or imposed upon the Indenture Trustee shall be conferred or imposed upon and exercised or performed by the Indenture Trustee and such separate trustee or separate trustees or co-trustee jointly except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed, the Indenture Trustee shall be incompetent or unqualified to perform such act or

acts, in which event such rights, powers, duties and obligations (including the holding of title to the Indenture Estate in any such jurisdiction) shall be exercised and performed by such separate trustee or separate trustees or co-trustee;

(iii) no power hereby given to, or with respect to which it is hereby provided may be exercised by, any such separate trustee or separate trustees or co-trustee shall be exercised hereunder by such Person except jointly with, or with the consent of, the Indenture Trustee; and

(iv) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

If at any time the Indenture Trustee shall deem it no longer necessary or prudent in order to conform to any such law, or take any such action or shall be advised by counsel that it is no longer legally required or necessary or prudent in the interest of the Note Holders or in the event the Indenture Trustee shall have been requested to do so by a Majority in Interest of Note Holders, the Indenture Trustee shall execute and deliver an indenture supplemental hereto and all other instruments and agreements necessary or proper to remove any separate trustee or separate trustees or co-trustee.

(e) Any request, approval or consent in writing by the Indenture Trustee to any separate trustee or separate trustees or co-trustee shall be sufficient warrant to such separate trustee or separate trustees or co-trustee, as the case may be, to take such action as may be so requested, approved or consented to.

(f) Notwithstanding any other provision of this Section 8.03, the powers of any separate trustee or separate trustees or co-trustee appointed pursuant to this Section 8.03 shall not in any case exceed those of the Indenture Trustee hereunder.

ARTICLE IX

SUPPLEMENTS AND AMENDMENTS TO THIS INDENTURE AND OTHER DOCUMENTS

SECTION 9.01. Instructions of Majority; Limitations.

(a) At any time and from time to time, (i) the Owner Trustee

(but only on the written request of the Owner Participant) and the Indenture Trustee (but only on the written request of a Majority in Interest of Note Holders) shall execute a supplement hereto for the purpose of adding provisions to, or changing or eliminating provisions of, this Indenture as specified in such request, and (ii) the Owner Trustee may (but only with the written consent of the Owner Participant and on the written request of a Majority in Interest of Note Holders) enter into such written amendment of or supplement to the Lease or any other Indenture Document to which it is party as may be specified in such request; provided, however, that, without the consent of each Note Holder, no such amendment of or supplement to any such document, or waiver or modification of the terms of any thereof, shall (i) modify any of the provisions of this Section 9.01 or the definitions of the terms "Excepted Rights in Collateral", "Indenture Default", "Indenture Event of Default", "Lease Event of Default", "Purchase Price", "Majority in Interest of Note Holders" or "Operative Documents", contained herein or in any other Operative Document (except to change default definitions by providing for additional events of default), (ii) increase the principal amount of any Note or reduce the amount or extend the time of payment of any amount owing or payable under any Note or (except as provided in this Indenture) increase or reduce the interest payable on any Note (except that only the consent of the Note Holder shall be required for any decrease in any amounts of or the rate of interest payable on such Note or any extension for the time of payment of any amount payable under such Note), or alter or modify the provisions of Article III with respect to the order of priorities in which distributions thereunder shall be made or with respect to the amount or time of payment of any such distribution, (iii) reduce, modify or amend any indemnities in favor of any Note Holder or in favor of or to be paid by the Owner Participant or alter the definition of "Indemnified Party" to exclude any Note Holder (except as consented to by each Person adversely affected thereby), (iv) modify or amend Section 3.2 or 11.1 of the Lease or, except as expressly contemplated by any provision of the Lease, reduce the amount or extend the time of payment of Interim Rent, Basic Rent or Stipulated Loss Value (or other amounts payable therewith) for the Units as set forth in the Lease (except to the extent required to match any action consented to by any Note Holder referred to in the parenthetical phrase in clause (ii) above), or (v) modify, amend or supplement the Lease or consent to any assignment of the Lease, in either case releasing the Lessee from its obligations in respect of the payment of Interim or Basic Rent (except as above provided) or Stipulated Loss Value (or other amounts payable therewith) for the Units or altering the absolute and unconditional character of

such obligations as set forth in Section 4.3 of the Lease or change any of the circumstances under which Stipulated Loss Value (or other amounts payable therewith) are payable. This Section 9.01 shall not apply to any indenture or indentures supplemental hereto permitted by, and complying with the terms of, Section 5.05 or Section 8.03. Notwithstanding the foregoing, without the consent of each Note Holder, no such supplement to this Indenture, or waiver or modification of the terms hereof or of any other agreement or document shall expressly permit the creation of any Lien on the Indenture Estate or any part thereof, except as herein expressly permitted, or deprive any Note Holder of the benefit of the Lien of this Indenture on the Indenture Estate, except as provided in Sections 5.01 and 5.02 or in connection with the exercise of remedies under Article IV.

SECTION 9.02. Trustees Protected. If, in the opinion of the institution acting as Owner Trustee under the Trust Agreement or the institution acting as the Indenture Trustee hereunder any document required to be executed pursuant to the terms of Section 9.01 affects any right, duty, immunity or indemnity with respect to it under this Indenture, the Indenture Trustee and the Owner Trustee may in their discretion decline to execute such document. In executing any supplement or amendment permitted by Section 9.01, the Indenture Trustee and the Owner Trustee shall be entitled to receive, and shall be fully protected in relying on, an opinion of counsel that the execution of such supplement or amendment is authorized or permitted by this Indenture.

SECTION 9.03. Documents Mailed to Holders. Promptly after the execution by the Owner Trustee or the Indenture Trustee of any document entered into pursuant to Section 9.01, the Owner Trustee shall mail, by certified mail, postage prepaid, a conformed copy thereof to Indenture Trustee and the Indenture Trustee shall mail, by certified mail, postage prepaid, a conformed copy thereof to each Note Holder at its address shown on the Note Register, but the failure of the Owner Trustee or Indenture Trustee, as the case may be, to mail such conformed copies shall not impair or affect the validity of such document.

ARTICLE X

MISCELLANEOUS

SECTION 10.01. Termination of Indenture. Upon (or at any time after) payment in full of the principal of and interest

TRUST INDENTURE

on and all other amounts due under, or otherwise due to the holders of, all Notes and provided that there shall then be no other amounts due to the Note Holders and the Indenture Trustee hereunder or under the Participation Agreement or the other Operative Documents or otherwise secured hereby, the Owner Trustee shall direct the Indenture Trustee to execute and deliver to or as directed in writing by the Owner Trustee an appropriate instrument releasing the Units from the Lien of this Indenture and releasing the Indenture Documents from the assignment and pledge thereof hereunder, and the Indenture Trustee shall execute and deliver such instrument as aforesaid and, at the Owner Trustee's expense, will execute and deliver such other instruments or documents as may be reasonably requested by the Owner Participant to give effect to such release; provided, however, that this Indenture and the trusts created hereby shall earlier terminate and this Indenture shall be of no further force or effect upon any sale or other final disposition by the Indenture Trustee of any property constituting part of the Indenture Estate and the final distribution by the Indenture Trustee of all monies or other property or proceeds constituting part of the Indenture Estate in accordance with the terms hereof. Except as aforesaid otherwise provided, this Indenture and the trusts created hereby shall continue in full force and effect in accordance with the terms hereof.

SECTION 10.02. No Legal Title to Indenture Estate in Holders. No Note Holder shall have legal title to any part of the Indenture Estate. No transfer, by operation of law or otherwise, of any Note or other right, title and interest of any Note Holder in and to the Indenture Estate or hereunder shall operate to terminate this Indenture or entitle such Note Holder or any successor or transferee of such holder to an accounting or to the transfer to it of legal title to any part of the Indenture Estate.

SECTION 10.03. Sale of Units by Indenture Trustee is Binding. Any sale or other conveyance of any Unit by the Indenture Trustee made pursuant to the terms of this Indenture or of the Lease shall bind the Note Holders and shall be effective to transfer or convey all right, title and interest of the Indenture Trustee, the Owner Trustee, the Owner Participant and the Note Holders in and to such Unit. No purchaser or other grantee shall be required to inquire as to the authorization, necessity, expediency or regularity of such sale or conveyance or as to the application of any sale or other proceeds with respect thereto by the Indenture Trustee.

SECTION 10.04. Indenture for Benefit of Owner Trustee, Indenture Trustee, Owner Participant and Note Holders. Nothing in this Indenture, whether express or implied, shall be construed to give to any person other than the Trust Company, the Owner Trustee, the Indenture Trustee, the Owner Participant, the Lessee and the Note Holders any legal or equitable right, remedy or claim under or in respect of this Indenture.

SECTION 10.05. No Action Contrary to Lessee's Rights Under the Lease. Notwithstanding any of the provisions of this Indenture or the Trust Agreement to the contrary, so long as no Lease Event of Default shall have occurred and be continuing, neither the Indenture Trustee nor the Owner Trustee will take any action in violation of the Lessee's rights under the Lease, including the right to possession and use of the Units in accordance with the terms of the Lease.

SECTION 10.06. Notices. Unless otherwise expressly specified or permitted by the terms hereof, all notices, requests, demands, authorizations, directions, consents, waivers or documents provided or permitted by this Indenture to be made, given, furnished or filed shall be in writing, mailed by certified mail, postage prepaid, or by confirmed telex, or by confirmed telecopy and (i) if to the Indenture Trustee or to the Owner Trustee, addressed to it at its office at the addresses listed in Section 8.3 of the Participation Agreement, or (ii) if to any Participant, the Lessee or any Note Holder, addressed to such party at such address as such party shall have furnished by notice to the Owner Trustee and the Indenture Trustee, or, until an address is so furnished, addressed to the address of such party (if any) set forth on the signature pages of the Participation Agreement. Whenever any notice in writing is required to be given by the Owner Trustee or the Indenture Trustee or any Note Holder to any of the other of them, such notice shall be deemed given and such requirement satisfied when such notice is received, if such notice is received, if such notice is mailed by certified mail, postage prepaid, or is sent by confirmed telex, or by confirmed telecopy addressed as provided above. Any party hereto may change the address to which notices to such party will be sent by giving notice of such change to the other parties to this Indenture.

SECTION 10.07. Severability. Any provision of this Indenture which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such

prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 10.08. No Oral Modifications or Continuing Waivers. No terms or provisions of this Indenture or the Notes may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party or other Person against whom enforcement of the change, waiver, discharge or termination is sought and any other party or other Person whose consent is required pursuant to this Indenture; and any waiver of the terms hereof or of any Note shall be effective only in the specific instance and for the specific purpose given.

SECTION 10.09. Successors and Assigns. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, each of the parties hereto and the successors and assigns of each, all as herein provided. Any request, notice, direction, consent, waiver or other instrument or action by any Note Holder shall bind the successors and assigns of such Note Holder. This Indenture and the Indenture Estate shall not be affected by any amendment or supplement to the Trust Agreement or by any other action taken under or in respect of the Trust Agreement, except that each reference in this Indenture to the Trust Agreement shall mean the Trust Agreement as amended and supplemented from time to time to the extent permitted hereby and thereby.

SECTION 10.10. Headings. The headings of the various Articles and Sections herein and in the table of contents hereto are for the convenience of reference only and shall not define or limit any of the terms or provisions hereof.

SECTION 10.11. Governing Law; Counterpart Form. This Indenture shall in all respects be governed by, and construed in accordance with, the law of the State of New York, including all matters of construction, validity and performance. This Indenture may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed by their respective officers thereunto duly authorized, as of the day and year first above written, and acknowledge that this Indenture has been made and delivered in the City of New York, and this Indenture having become effective only upon such execution and delivery.

MERIDIAN TRUST COMPANY,
not in its individual
capacity, except as otherwise
expressly provided herein but
solely as Owner Trustee

By: _____
Title:

THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION)
as Indenture Trustee

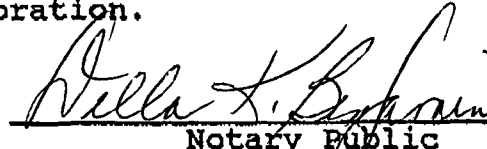
By:  _____
Title: ASSISTANT SECRETARY

TRUST INDENTURE

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

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On this 21st day of August 1990, before me, personally appeared Timothy E. Burke, to me personally known who signed the foregoing instrument on this day and, being by me duly sworn, says that he is an Assistant Secretary of THE CHASE MANHATTAN BANK (National Association), that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

[Notarial Seal]

My Commission expires:

DELLA K. BENJAMIN
Notary Public, State of New York
No. 24-4659667
Qualified in Kings County
Certificate Filed In New York County
Commission Expires April 30, 1991

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF BERKS)

On this ____ day of _____, 1990, before me personally appeared _____, to me personally known who signed the foregoing instrument on this day and, being by me duly sworn, says that he is a Vice President of MERIDIAN TRUST COMPANY, that said instrument was signed on behalf of said corporation by authority of its Board of Directors and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires:

TRUST INDENTURE

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed by their respective officers thereunto duly authorized, as of the day and year first above written, and acknowledge that this Indenture has been made and delivered in the City of New York, and this Indenture having become effective only upon such execution and delivery.

MERIDIAN TRUST COMPANY,
not in its individual
capacity, except as otherwise
expressly provided herein but
solely as Owner Trustee

By: 
Title: VICE PRESIDENT

THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION)
as Indenture Trustee

By: _____
Title: _____

TRUST INDENTURE

STATE OF NEW YORK)
COUNTY OF NEW YORK)

On this _____ day of _____, before me, personally appeared _____, to me personally known who signed the foregoing instrument on this day and, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK (National Association), that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires:

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF BERKS)

On this 20th day of August, 1990, before me personally appeared Stephen J. Kabala, to me personally known who signed the foregoing instrument on this day and, being by me duly sworn, says that he is a Vice President of MERIDIAN TRUST COMPANY, that said instrument was signed on behalf of said corporation by authority of its Board of Directors and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

My Commission expires:

NOTARIAL SEAL

LUCY CORTEZ, Notary Public
Reading, Berks County, PA
My Commission Expires 4 - 20 - 92

TRUST INDENTURE

DESCRIPTION OF UNITS

12 New General Electric Model Dash 8-40C 4000 HP Diesel
Electric Locomotives with the following respective Road Numbers:

Lessee's Road Number

CNW 8531
CNW 8532
CNW 8533
CNW 8534
CNW 8535
CNW 8536
CNW 8537
CNW 8538
CNW 8539
CNW 8540
CNW 8541
CNW 8542

EXHIBIT A
TO INDENTURE

[Form of Note]

NOTICE

THIS NOTE HAS NOT BEEN REGISTERED PURSUANT TO THE SECURITIES ACT OF 1933 OR UNDER ANY OF THE SECURITIES LAWS OF ANY STATE. THIS NOTE MAY NOT BE OFFERED OR SOLD UNLESS IT IS REGISTERED UNDER THE APPLICABLE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE.

MERIDIAN TRUST COMPANY,

not in its individual capacity, except
as otherwise expressly provided in the
Operative Documents, but solely as
Owner Trustee under Trust Agreement
dated as of July __, 1990

NOTE DUE 2009
ISSUED IN CONNECTION WITH 12 GENERAL ELECTRIC
MODEL DASH 8-40C 4000 HP DIESEL ELECTRIC LOCOMOTIVES

No. R-

New York, New York

\$

Meridian Trust Company, not in its individual capacity, except as otherwise expressly provided in the Operative Documents, but solely as Owner Trustee (herein in such capacity called the "Owner Trustee") under that certain Trust Agreement dated as of August 1, 1990, between the Owner Participant named therein and Meridian Trust Company (herein as such Trust Agreement may be amended or supplemented from time to time called the "Trust" .

TRUST INDENTURE

Agreement"), hereby promises to pay to _____, or registered transferees, the principal sum of _____

_____ Dollars, in thirty-six (36) installments, one such installment to be due and payable on each Payment Date, each such installment to be in an amount equal to the amount set forth in Annex A hereto, together with interest on the unpaid principal amount hereof from time to time outstanding from and including the date hereof until such principal amount is paid in full at the rate of 10.3% per annum, payable in arrears on each Interest Payment Date and on the date this Note is paid in full. This Note shall bear interest at the Default Rate on any principal hereof, and, to the extent permitted by applicable law, interest and other amounts due hereunder, not paid when due (whether at stated maturity, by acceleration or otherwise), for any period during which the same shall be overdue, payable on demand by the holder hereof given through the Indenture Trustee.

Interest shall be calculated on the basis of a year of 360 days consisting of 12 thirty-day months; provided that interest on past-due amounts shall be calculated on the basis of a year of 360 days and actual days elapsed. If any sum payable hereunder falls due on a day which is not a Business Day, then such sum shall be payable on the next succeeding Business Day, together with interest thereon at the Applicable Rate from and including the scheduled due date to but excluding such next succeeding Business Day.

All payments of principal and interest and other amounts to be made to the holder hereof or under the Trust Indenture and Security Agreement dated as of August 1, 1990 (as amended or supplemented from time to time, herein called the "Indenture", the terms defined therein and not otherwise defined herein being used herein with the same meanings) between the Owner Trustee and The Chase Manhattan Bank (National Association) as Indenture Trustee thereunder, shall be made only from the income and proceeds from the Indenture Estate and only to the extent that the Owner Trustee shall have sufficient income or proceeds from the Indenture Estate to enable the Indenture Trustee to make such payments in accordance with the terms of the Indenture. Each holder hereof, by its acceptance of this Note, agrees that it will look solely to the income and proceeds from the Indenture Estate to the extent available for distribution to the holder hereof as above provided and that none of the Owner Participant, the Trust Company or the Indenture Trustee is personally liable to the holder hereof for any amounts payable or any liability under this Note or under the Indenture, except as expressly provided in the Indenture (in the case of the Trust Company and the Indenture Trustee) or as

expressly provided in the Participation Agreement (in the case of the Trust Company, the Indenture Trustee and the Owner Participant).

Principal and interest and other amounts due hereon shall be payable in Dollars in immediately available funds prior to Noon, New York, New York time, on the due date thereof, to the Indenture Trustee at the Corporate Trust Office and the Indenture Trustee shall, subject to the terms and conditions of the Indenture, remit all such amounts so received by it to the holder hereof in accordance with the terms of the Indenture at such account or accounts at such financial institution or institutions as the holder hereof shall have designated to the Indenture Trustee in writing, in immediately available funds, such payment to be made, in the case of any such designated account in New York, New York, prior to 3:00 P.M., New York time, on the due date thereof. The Indenture Trustee shall use its best efforts to notify by telephone the institution, at which such designated account is located, of the FedWire reference number (if such reference number is then available) of such remittance (or other applicable reference number if a different method of funds transfer is used), prior to 5:00 P.M., New York time, on the date of such remittance. In the event the Indenture Trustee shall fail to make any such payment as provided in the immediately foregoing sentence after its receipt of funds at the place and prior to the time specified above, the Indenture Trustee, in its individual capacity and not as trustee, agrees to compensate the holder hereof for loss of use of funds at the Federal Funds Rate. All such payments by the Owner Trustee and the Indenture Trustee shall be made free and clear of and without reduction for wire or other like charges.

Each holder hereof, by its acceptance of this Note, agrees that, except as otherwise expressly provided in the Indenture, each payment received by it in respect hereof shall be applied, first, to the payment of any amount (other than the principal of or interest on this Note) due in respect of this Note, second, to the payment of interest hereon (as well as any interest on overdue principal and, to the extent permitted by law, interest and other amounts payable hereunder) due and payable hereunder, third, to the payment of the principal of this Note then due and fourth, the balance, if any, remaining thereafter, to the payment of the principal of this Note remaining unpaid, in the manner set forth in the last sentence of Section 2.05 of the Indenture.

This Note is one of the Notes referred to in the Indenture which have been or are to be issued by the Owner Trustee pursuant to the terms of the Indenture. The Indenture Estate is held by the Indenture Trustee as security, in part, for the Notes. The Beneficial Interest of the Owner Participant in and to the properties of the Owner Trustee pledged or mortgaged as part of the Indenture Estate is subject and subordinate to the lien and security interest granted to the Indenture Trustee to the extent provided in the Indenture. Reference is hereby made to the Indenture and the Participation Agreement referred to therein for a statement of the rights and obligations of the holder hereof, and the nature and extent of the security for this Note and of the rights and obligations of the other Note Holders, and the nature and extent of the security for the other Notes, as well as for a statement of the terms and conditions of the trusts created by the Indenture, to all of which terms and conditions in the Indenture and such Participation Agreement each holder hereof agrees by its acceptance of this Note.

There shall be maintained a Note Register for the purpose of registering transfers and exchanges of Notes at the Corporate Trust Office of the Indenture Trustee in the manner provided in Section 2.07 of the Indenture. As provided in the Indenture and subject to certain limitations set forth therein and in the Participation Agreement, this Note or any interest herein may, subject to the next following paragraph, be assigned or transferred, and the Notes are exchangeable for a like aggregate original principal amount of Note of any authorized denomination, as requested by the Note Holder surrendering the same.

The Owner Trustee and the Indenture Trustee may deem and treat the person in whose name this Note is registered on the Note Register as the absolute owner of this Note and the Note Holder for the purpose of receiving payment of all amounts payable with respect to this Note and for all other purposes whether or not this Note is overdue, and neither the Owner Trustee nor the Indenture Trustee shall be affected by notice to the contrary.

This Note is subject to prepayment only as permitted by Sections 2.10 and 2.11 of the Indenture and to purchase without consent of the holder hereof only as provided in Section 2.12 of the Indenture, and the holder hereof, by its acceptance of this Note, agrees to be bound by said provisions.

This Note shall not be secured by or be entitled to any benefit under the Indenture or be valid or obligatory for any purpose, unless authenticated by the Indenture Trustee as

evidenced by the manual signature of one of its authorized signatories on the note below.

This Note shall be governed by and construed in accordance with the law of the State of New York.

IN WITNESS WHEREOF, the Owner Trustee has caused this Note to be executed in its corporate name by its officer thereunto duly authorized, as of the date hereof.

MERIDIAN TRUST COMPANY,
not in its individual capacity,
but solely as Owner Trustee

By: _____
Title:

FORM OF INDENTURE TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

THE CHASE MANHATTAN BANK,
(NATIONAL ASSOCIATION)
as Indenture Trustee

By: _____
Authorized Signatory

Annex A to Note

SCHEDULE OF PRINCIPAL PAYMENTS

Payment Date
(Interest Payment
Date occurring in)

Principal
Amount to
be Paid *

-
- * The amounts in this column for any Note shall be equal, for any Payment Date, to the product of (a) the "Principal Amount to be Paid" for such Payment Date as set forth in the Schedule of Principal Payments in Section 2.01(b) and (b) a fraction, the numerator of which is the original principal amount of such Notes and the denominator of which is aggregate original principal amount of all Notes.

TRUST INDENTURE